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2000

# ILLINOIS

## REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES

ILLINOIS DOCUMENTS

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Volume 24, Issue 45  
November 03, 2000

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# ILLINOIS REGISTER

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**EDITOR'S NOTE:** The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indices are as follows:

Issue 16 - April 14, 2000: Data Through March 31, 2000  
Issue 29 - July 14, 2000: Data Through June 30, 2000  
Issue 42 - October 13, 2000: Data Through September 30, 2000  
Issue 3 - January 19, 2001: Data Through December 31, 2000 (Annual)



## INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

## REGISTER PUBLICATION SCHEDULE 2000

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 27, 1999	January 7, 2000	Issue 28	June 26	July 7
Issue 2	January 4, 2000*	January 14	Issue 29	July 3	July 14
Issue 3	January 10	January 21	Issue 30	July 10	July 21
Issue 4	January 18*	January 28	Issue 31	July 17	July 28
Issue 5	January 24	February 4	Issue 32	July 24	August 4
Issue 6	January 31	February 14**	Issue 33	July 31	August 11
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Issue 10	February 28	March 10	Issue 37	August 28	September 8
Issue 11	March 6	March 17	Issue 38	September 5*	September 15
Issue 12	March 13	March 24	Issue 39	September 11	September 22
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Issue 16	April 3	April 14	Issue 44	October 10*	October 20
Issue 17	April 10	April 21	Issue 43	October 16	October 27
Issue 18	April 17	April 28	Issue 44	October 23	November 3
Issue 19	April 24	May 5	Issue 45	October 30	November 13**
Issue 20	May 1	May 12	Issue 46	November 6	November 17
Issue 21	May 8	May 19	Issue 47	November 13	November 27 **
Issue 22	May 15	May 26	Issue 48	November 20	December 1
Issue 23	May 22	June 2	Issue 49	November 27	December 8
Issue 24	May 30*	June 9	Issue 50	December 4	December 15
Issue 25	June 5	June 16	Issue 51	December 11	December 22
Issue 26	June 12	June 23	Issue 52	December 18	December 29
Issue 27	June 19	June 30	Issue 1	December 26*	January 5, 2001

\* Tuesday 12 noon deadline following a state holiday.

\*\* Monday publication date following a state holiday.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number: Proposed Action  
APPENDIX A, Table AB New
- 4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

5) A Complete Description of the Subjects and Issues Involved: Section 310, Appendix A, Table AB is being added into the Pay Plan for the Plant Maintenance Engineers to be included into a collective bargaining unit which will be represented by the International Union of Operating Engineers, Local #399-Chicago, effective July 1, 2000.

A bargaining unit code VR-007 (voluntary recognition) has been established to which the Plant Maintenance Engineers will be moved from the Merit Compensation Plan. Employees in these titles will no longer be eligible to receive merit compensation increases. The monthly negotiated rates for the Plant Maintenance Engineer I and II will be \$5,260.02 and \$5,510.58. Employees being paid a salary in excess of the standard rates as of July 1, 2000 will have their salary increased by the same percentage as the increase in the standard rate of wages. The percentage increase in effect for July 1, 2000 is 3.23%.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain any incorporations by reference? No

9) Are there any proposed amendments pending to this Part? Yes

Section Numbers	Proposed Action	Ill. Reg. Citation
310.280	Amend	24 Ill. Reg. 5802
310.280	Amend	24 Ill. Reg. 7574
310.100	Amend	24 Ill. Reg. 10030
310.110	Amend	24 Ill. Reg. 10030
310.130	Amend	24 Ill. Reg. 10030
310.290	Amend	24 Ill. Reg. 10030
310.490	Amend	24 Ill. Reg. 10030
310.530	Amend	24 Ill. Reg. 10030
310.540	Amend	24 Ill. Reg. 10030
APPENDIX B	Amend	24 Ill. Reg. 10030
APPENDIX C	Amend	24 Ill. Reg. 10030

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- APPENDIX D Amend 24 Ill. Reg. 10030
- APPENDIX G Amend 24 Ill. Reg. 10030
- 310.280 Amend 24 Ill. Reg. 05802
- 310.280 Amend 24 Ill. Reg. 07574

10) Statement of Statewide Objectives: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Mr. Michael Murphy  
Department of Central Management Services  
Division of Technical Services  
504 William G. Stratton Building  
Springfield, Illinois 62706  
(217) 782-5601

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None. The Department of Central Management Services' Pay Plan extends only to Personnel Code employees under the jurisdiction of the Governor.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: this information was not known at the time.

The full text of the Proposed Amendments begins on the next page.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
 SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
 POSITION CLASSIFICATIONS  
 CHAPTER 1: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310  
 PAY PLAN

## SUBPART A: NARRATIVE

Section	
310.200	Policy and Responsibilities
310.300	Jurisdiction
310.400	Pay Schedules
310.500	Definitions
310.600	Conversion of Base Salary to Pay Period Units
310.700	Conversion of Base Salary to Daily or Hourly Equivalents
310.800	Increases in Pay
310.900	Decreases in Pay
310.1000	Other Pay Provisions
310.1100	Implementation of Pay Plan Changes for Fiscal Year 2000
310.1200	Interpretation and Application of Pay Plan
310.1300	Effective Date
310.1400	Reinstitution of Within Grade Salary Increases (Repealed)
310.1500	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

## SUBPART B: SCHEDULE OF RATES

Section	
310.200	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate
310.240	Hourly Rate
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate
310.270	Legislated and Contracted Rate
310.280	Designated Rate
310.290	Out-of-State or Foreign Service Rate
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330	Excluded Classes Rate (Repealed)

## SUBPART C: MERIT COMPENSATION SYSTEM

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Section	
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310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases
310.455	Intermittent Merit Increase
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase Guidechart for Fiscal Year 2000
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## APPENDIX A

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TABLE B	HR-200 (Department of Labor - Chicago, Illinois - SEIU) (Repealed)
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TABLE D	HR-001 (Teamsters Local #726)
TABLE E	RC-020 (Teamsters Local #330)
TABLE F	RC-019 (Teamsters Local #25)
TABLE G	RC-045 (Automotive Mechanics, IFPE)
TABLE H	RC-006 (Corrections Employees, AFSCME)
TABLE I	RC-009 (Institutional Employees, AFSCME)
TABLE J	RC-014 (Clerical Employees, AFSCME)
TABLE K	RC-023 (Registered Nurses, INA)
TABLE L	RC-008 (Boilermakers)
TABLE M	RC-110 (Conservation Police Lodge)
TABLE N	RC-010 (Professional Legal Unit, AFSCME)
TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
TABLE P	RC-029 (Paraprofessional, Investigatory and Law Enforcement Employees, IFPE)
TABLE Q	RC-033 (Meat Inspectors, IFPE)
TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
TABLE S	HR-012 (Fair Employment Practices Employees, SEIU)
TABLE T	HR-010 (Teachers of Deaf, IFP)
TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V	CU-500 (Corrections, Meet and Confer Employees)



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

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TABLE Y	RC-063 (Educators, AFSCME)
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APPENDIX B	Medical Administrator Rates for Fiscal Year 2000
APPENDIX C	Merit Compensation System Salary Schedule for Fiscal Year 2000
APPENDIX D	Teaching Salary Schedule (Repealed)
APPENDIX E	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX F	Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2000
APPENDIX G	

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 368, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 13675, effective July 31, 1986; emergency amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 19132, effective October 28, 1986; emergency

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; emergency amendment at 11 Ill. Reg. 3363, effective February 3, 1987; emergency amendment at 11 Ill. Reg. 4388, effective February 27, 1987; emergency amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; emergency amendment at 11 Ill. Reg. 15273, effective September 1, 1987; emergency amendment at 11 Ill. Reg. 17919, effective October 19, 1987; emergency amendment at 11 Ill. Reg. 19612, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; emergency amendment at 12 Ill. Reg. 3811, effective January 27, 1988; emergency amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; emergency amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 8135, effective April 22, 1988; emergency amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; emergency amendment at 12 Ill. Reg. 20584, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; emergency amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10567, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; emergency amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; emergency amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; emergency amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; emergency amendment at 14 Ill. Reg. 18854,

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 19, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21859, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11554, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 14, 1995; amended at 19 Ill. Reg. 16160,

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 28, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 23, 1999; peremptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; peremptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; peremptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; peremptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; peremptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 310.APPENDIX A Negotiated Rates of Pay

Section 310.TABLE AB VR-007 (Plant Maintenance Engineers, Operating Engineers)

Effective July 1, 2000	
Title	Standard Rate
Plant Maintenance Engineer I	5260.02
Plant Maintenance Engineer II	5510.56
(Source: Added at 25 Ill. Reg. _____, effective _____)	



## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Standards of Service Applicable to Wireless 9-1-1 Emergency Systems

- 2) Code Citation: 83 Ill. Adm. Code 728

<u>Section Numbers:</u>	<u>Proposed Action:</u>
728.100	New Section
728.105	New Section
728.200	New Section
728.205	New Section
728.210	New Section
728.300	New Section
728.305	New Section
728.310	New Section

- 4) Statutory Authority: Implementing and authorized by Section 15 of the Wireless Emergency Telephone Safety Act [50 ICS 751/15].

- 5) A Complete Description of the Subjects and Issues Involved: These rules establish a mechanism for the Commission to authorize the provision of 9-1-1 wireless services. The rules contain the requirements for obtaining authorization to operate and also the standards for operations once authorization has been granted.

- 6) Will these proposed rules replace emergency rules currently in effect? Yes-

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed rules contain incorporations by reference? No

- 9) Are there any other proposed rules pending on this Part? No

- 10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any state mandate on units of local government, school districts, or community college districts.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed with:

Donna M. Caton  
Chief Clerk  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield IL 62701  
(217)782-7434

Comments should be filed with the Chief Clerk within 45 days after the date of this issue of the *Illinois Register*.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF PROPOSED RULES

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: These rules will not affect any small businesses as defined in the Illinois Administrative Procedure Act. These rules will affect any small municipalities that seek to offer 9-1-1 wireless emergency services. These rules will not affect any not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: Reporting and record keeping.

C) Types of professional skills necessary for compliance: Engineering and managerial.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the Commission did not foresee the need for these rules.

The full text of the Proposed Rules is identical to the Emergency Rules on page 16331 of this issue of the *Illinois Register*.

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Employment
- 2) Code Citation: 56 Ill. Adm. Code 2732
- 3) Section Number: Proposed Action:  
2732.305 Repeal  
2732.306 New
- 4) Statutory Authority: 820 ILCS 405/205, 206, 211.5, 212, 212.1, 215, 217, 218, 225, 1700 and 1701; 820 ILCS 405/206.1 (see Public Act 91-0890).
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 91-0890 became effective on July 6, 2000. As required by the recent addition of Section 206.1 included in that Public Act, this rule sets forth the registration requirements for employee leasing companies which wish to be considered as the employer of their leased employees for the purposes of the Unemployment Insurance Act.
- 6) Will these proposed amendments replace emergency amendments currently in effect: Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain an incorporation by reference pursuant to Section 6.02 of the Illinois Administrative Procedure Act? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective? This proposed amendment neither creates nor expands any state mandate on units of local government, school districts or community college districts.
- 11) Time, Place and Manner in which interested persons may comment on this Proposed Rulemaking: Interested persons may submit written comments to:

Gregory J. Rameil, Deputy Legal Counsel  
Illinois Department of Employment Security  
401 South State Street - 7th Floor South  
Chicago IL 60605  
312-793-4240

The Department requests the submission of written comments within 45 days

## DEPARTMENT OF EMPLOYMENT SECURITY

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after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects all businesses to the same extent.
- B) Reporting, bookkeeping or other procedures required for compliance: As mandated by Section 206.1 of the Unemployment Insurance Act, this rulemaking requires any employee leasing company which wishes to be considered the employer of its leased employees to register with the Department. This rulemaking sets forth the required information needed to register and the deadlines for such registration to be effective.

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: this rulemaking is the result of a recent amendment to the Unemployment Insurance Act and its provision could not have been anticipated.

The full text of the Proposed Amendments begins on the next page.

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF PROPOSED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY  
SUBCHAPTER C: RIGHTS AND DUTIES OF EMPLOYERS

PART 2732  
EMPLOYMENT

## SUBPART A: COVERAGE

Section 2732.125 Requirement That "Four Or More" Employees Of A Nonprofit Organization Perform Services Within This State

## SUBPART B: SERVICES IN EMPLOYMENT

Section 2732.200 Section 212 Of The Act - Services In Employment  
2732.203 The Effect Of Regulation By A Governmental Entity On "Direction Or Control" Under Section 212 Of The Act  
2732.205 Owner-Operators Of Motorized Vehicles  
2732.210 Mandatory Jury Service  
2732.215 Exemption From The Definition Of Employment For Participants In The Americorps Program  
2732.220 Exemption From The Definition Of Employment For Direct Sellers Of Consumer Goods  
2732.225 Exemption From The Definition Of Employment For Freelance Editorial Or Photographic Work  
2732.227 Exemption For The Delivery Or Distribution Of Newspaper Or Shopping News To The Ultimate Consumer  
2732.230 Domestic Service  
2732.235 Effect Of Section 218 Of The Act On The Employment Status Of Certain Relatives

## SUBPART C: DETERMINING THE EMPLOYER

Section 2732.305 Employee Leasing Companies (Repealed)  
2732.306 Employee Leasing Company - Obligation To Report The Identities Of Its Clients

AUTHORITY: Implementing and authorized by Sections 205, 206, 206.1, 211.5, 212, 212.1, 215, 217, 218, 225, 1700, and 1701 of the Unemployment Insurance Act [820 ILCS 405/205, 206, 206.1, 211.5, 212, 212.1, 215, 217, 218, 225, 1700, and 1701] (see Public Act 91-0890).

SOURCE: Adopted at 13 Ill. Reg. 8864, effective May 30, 1989; amended at 14 Ill. Reg. 673, effective January 2, 1990; amended at 15 Ill. Reg. 11423, effective July 30, 1991; amended at 16 Ill. Reg. 8173, effective May 18, 1992;

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF PROPOSED AMENDMENTS

amended at 16 Ill. Reg. 12159, effective July 20, 1992; amended at 17 Ill. Reg. 8809, effective June 2, 1993; amended at 17 Ill. Reg. 17947, effective October 4, 1993; amended at 18 Ill. Reg. 16355, effective October 24, 1994; amended at 21 Ill. Reg. 9456, effective July 2, 1997; emergency amendment at 24 Ill. Reg. 14788, effective September 22, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART C: DETERMINING THE EMPLOYER

## Section 2732.305 Employee Leasing Companies (Repealed)

a) The words and terms used in this Section shall have the following meanings:

1) "Client" shall have the same meaning as that set forth for this term in Section 2765.5 of this Part;

2) "Employee-leasing company" (also referred to as an employee service company) shall have the same meaning as that set forth for this term in Section 2765.5 of this Part;

Example: An on-going business lays off its workers and then they are immediately hired by the employee-leasing company;

this transaction exemplifies supplying workers to a client;

3) "Worker" means an individual provided by an employee-leasing company to perform services in employment for its client;

b) Notwithstanding any contractual provisions that designate who is the employer, an employee service company is the employer of a worker only if: in fact, the employee service company performs all of the following functions:

1) Retains the sole authority to hire, promote, discipline, and terminate the worker; An indication of whether the employee-leasing company performs this function can be found in the answers to the following questions:

A) Who recruits, interviews, and tests the prospective worker and subsequently makes the hiring decision?

B) Who formulates rules and regulations applicable to worker conduct, regardless of where the worker is placed?

C) Who does the worker notify of any absences and requests for leave?

D) Who resolves any worker dissatisfaction concerning conditions of employment?

2) Assigns or approves the worker to perform services for the client; An indication of whether the employee-leasing company performs this function can be found in the answers to the following questions:

A) Does the client independently negotiate with the worker regarding conditions of employment?

B) If the client becomes dissatisfied with the performance of the worker and requests reassignment of the worker who makes the decision whether to discharge the worker or



## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF PROPOSED AMENDMENTS

reassign him to another client?

6) Who provides on-site supervision of the worker, prepares and sets a work schedule for workers at the job site and sets performance standards or time requirements for the completion of the client work assigned?

3) Besides the total compensation paid to the worker including rate of pay and benefits, an indication of whether the employee leasing company performs this function can be found in the answers to the following questions:

A) Who determines the hourly rate or salary of the worker and also decides whether to provide pay increases or decreases?

B) Who provides the medical and hospitalization insurance, life insurance and pension benefits?

C) When a package of the benefits listed in subsection (b)(3)(B) above is provided, are they comparable regardless of the client?

B) Who not only issues a check for the worker's hourly wages but also pays sick, vacation and bonus compensation?

4) Moreover, who reimburses the worker for his expenses? Insubstantiality for the State and Federal employment taxes and assures that workers' compensation is provided to the worker.

5) Negotiates with clients for such matters as time, piece, type of work, working conditions and quality and price of services. An indication of whether the employee leasing company performs this function can be found in the answer to the question: Prior to entering into the lease relationship, do the client and employee leasing company negotiate as to such matters as the number of shifts per work day, mandatory overtime, number of breaks and length of lunches?

c) Notwithstanding any of the aforementioned functions, nothing herein shall limit the right of the employee leasing company to confer with its client concerning any of the aforementioned functions.

d) If the employee leasing company does not perform all of the functions in subsection (b) when the client is the employer of the worker, there is a rebuttable presumption that the employee service company performs all of the functions in subsection (b) above unless:

1) the contract between the client and the employee service company indicates the client performs or has the right to perform one or more of the functions in subsection (b) above; or

2) a principal or officer of the client states to the Director or an employee of the Director that the client performs or has the right to perform one or more of the functions in subsection (b) above; or

3) the client has previously contracted with another employee service company and circumstances suggest that the client's decision to terminate its relationship with the other employee service company was principally motivated by a desire to avoid unemployment insurance contributions.

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e) Notwithstanding any other provision of this Section, the client shall always be the employer of the officers of a corporation as the term is used in its Articles of Incorporation or by laws to the extent that the individual is providing services in the capacity of an officer. However, nothing in this subsection is intended to preclude an officer of a corporation, a sole proprietor of a business or a partner in a partnership from separately performing and being compensated for services performed as an employee of the leasing company.

Example: Mr. Smith is the vice president for operations of Company A which leases its workers from leasing Company X. To the extent that Mr. Smith performs the functions of a vice president of Company A, his wages for such services must be reported by Company A. However, Mr. Smith may provide services to leasing Company X other than those as an officer of Company A. To the extent that these services are provided to the leasing Company, any wages for these services are to be reported by the leasing Company.

f) Nothing in this Section is intended to preclude the employee leasing company from performing the functions in subsection (b) through on-site supervisors whether or not such supervisors were previously employed by the client in the same or similar capacities. However, the employee leasing company must show that such individuals are its employees while performing the function of on-site supervisors in that subject to subsection (c); it performs the functions in subsection (b) of this Section with respect to such individuals.

(Source: Repealed at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

### Section 2732.306 Employee Leasing Company - Obligation To Report The Identities Of Its Clients

a) A report submitted to the Department in the manner provided for in subsection (e), with the contents required by subsection (b), will satisfy the reporting requirement in paragraph 4 of subsection B of Section 206.1 of the Act for each calendar quarter ending on or after the date of the report's submission. The report will also satisfy the reporting requirements for the calendar quarter ending immediately prior to its submission where the employee leasing company's contract with the client took effect in that quarter and either:

1) the report is submitted within 30 days after the effective date of the contract; or

2) the last day of the quarter is a day on which the Department is closed and the report is submitted on the first succeeding day on which the Department is open.

Example: Employee leasing Company A contracts with Client B to lease employees to Client B, effective July 1, 2000. Client B has a contribution rate of 1.0% for 2000. Employee leasing

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## NOTICE OF PROPOSED AMENDMENTS

Company A has a contribution rate of 4.0% for 2000 and its relationship with Client B meets the conditions set forth in paragraphs 1, 2 and 3 of subsection B of Section 206.1 of the Act. Beginning with the report due for the third quarter of 2000, Employee Leasing Company A reports the leased employees on its wage reports and pays contributions on those wages at its contribution rate. Client B terminates its liability as of July 1, 2000 and stops filing any wage reports. However, the Employee Leasing Company does not report the leasing relationship to the Director until February 1, 2001. As a result, Employee Leasing Company A cannot report the workers in question for the third and fourth quarters of 2000 as its employees. The workers must be reported by Client B. Since timely wage reports were not filed nor were contributions paid by Client B, penalties will be assessed and interest charged. Waiver of such penalty and interest can be granted only for the reasons set forth in 56 Ill. Adm. Code 2765. Employee Leasing Company A may amend its wage reports to remove the workers and then file for a refund or adjustment as provided in Section 220.1 of the Act.

b) In order to satisfy the reporting requirement in paragraph 4 of subsection B of Section 206.1 of the Act, a report must contain:

- 1) the name of the client;
- 2) a general description of the client's business and business locations;
- 3) the client's unemployment insurance account number (if any); and
- 4) the effective date of the employee leasing company's contract with the client.

The report shall be accompanied by either a power of attorney to represent the client or a certification by an officer or employee of the employee leasing company that the information contained in the report is true and correct to the best of his or her knowledge.

c) Whenever the employee leasing relationship between an employee leasing company and its client is terminated, the employee leasing company must report the name of the client, the client's unemployment insurance account number (if any) and the effective date of the termination within 30 days after that date.

d) The terms used in this Section shall have the meanings set forth for them in Section 206.1 of the Act.

e) The notices required by this Section shall be mailed or sent by facsimile transmission to the Illinois Department of Employment Security, Revenue Division, 401 S. State St., 4th Floor North, Chicago IL 60605, Attn: Employer Services (FAX No.: 312-793-6296). A facsimile transmission is subject to Section 2712.1 with respect to the risk of nontransmission and the effect of the dates imprinted by the Department's and sender's respective telefax machines.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF EMPLOYMENT SECURITY

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1) Heading of the Part: Payment of Unemployment Contributions, Interest And Penalties

2) Code Citation: 56 Ill. Adm. Code 2765

3) Section Numbers: Proposed Action:  
2765.5 Amend

4) Statutory Authority: 820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701 and 2600; 820 ILCS 405/206.1 (see Public Act 91-0890).

5) Complete Description of the Subjects and Issues Involved: The definitions being deleted from this Section were replaced by statutory definitions of the same terms in Public Act 91-0890 (820 ILCS 405/206.1).

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain an incorporation by reference pursuant to Section 6.02 of the Illinois Administrative Procedure Act? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objective: This proposed amendment neither creates nor expands any state mandate on units of local government, school districts or community college districts.

11) Time, Place and Manner in which interested persons may comment on this Proposed Rulemaking: Interested persons may submit written comments to:

Gregory J. Ramel, Deputy Legal Counsel  
Illinois Department of Employment Security  
401 South State Street - 7th Floor South  
Chicago IL 60605  
312-793-4240

The Department requests the submission of written comments within 45 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking affects all

## DEPARTMENT OF EMPLOYMENT SECURITY

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businesses to the same extent.

B) Reporting, bookkeeping or other procedures required for compliance:  
None

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: this rulemaking is the result of a recent amendment to the Unemployment Insurance Act and its provision could not have been anticipated.

The full text of the Proposed Amendment begins on the next page.

## DEPARTMENT OF EMPLOYMENT SECURITY

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TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY  
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERS

## PART 2765

## PAYMENT OF UNEMPLOYMENT CONTRIBUTIONS, INTEREST AND PENALTIES

## SUBPART A: GENERAL PROVISIONS

Section	
2765.1	Unemployment Contributions Not Deductible From Wages
2765.5	Definitions
2765.10	Payment Of Contributions
2765.15	Liability For The Entire Year
2765.18	Liability Of A Third Party Purchaser Or Transferee For The Due And Unpaid Contributions, Interest And Penalties Of The Seller Or Transferor's Seller Or Transferor
2765.20	Contributions Of Employers By Election
2765.25	Payments In Lieu Of Contributions
2765.30	When Payments In Lieu Of Contributions Payable
2765.35	Payments When Reimbursable Employer Becomes Contributory
2765.40	Payments When Contributory Employer Becomes Reimbursable
2765.44	Fee For Not Sufficient Funds (NSF) Checks
2765.45	Application Of Payment
2765.50	Accrual Of Interest
2765.55	Imposition Of Penalty
2765.60	Payment Or Filing By Mail
2765.63	When Payment Due And Consequences Of Upward Revision In Employer's Contribution Rate
2765.64	Consequences Where An Employee Leasing Company Has Erroneously Reported Wages And Paid Contributions Which Wages Should Have Been Reported And Contributions Paid By Its Client
2765.65	Waiver Of Interest Or Penalty
2765.66	Waiver Of Interest Accruing Because Of Certain Types Of Employees For Periods Prior To January 1, 1988
2765.67	Partial Waiver Of Interest Where An Employer Has Erroneously Reported Wages To The Wrong State
2765.68	Waiver Of Penalty For Certain Employers For 1987 And Thereafter Wage Reports (UC-3/40)
2765.69	Partial Waiver Of Interest Where An Employer Has Erroneously Paid Its Federal Unemployment Tax Act (FUTA) Tax In Full But Has Failed To Pay Its Illinois Unemployment Insurance Contributions
2765.70	Waiver Of Interest For Certain Nonprofit Organizations or Local Governmental Entities
2765.71	Waiver Of Interest Accruing Due To A Delay In The Issuance Of A Decision On A Protested Determination And Assessment
2765.73	Waiver Of Interest For Certain Nonprofit Hospitals
2765.74	Time For Paying Or Filing Delayed Payment Or Report



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2765.75 Application For Waiver  
 2765.80 Approval Of Application For Waiver  
 2765.85 Insufficient Or Incomplete Application  
 2765.90 Disapproval Of Application Conclusive  
 2765.95 Appeal And Hearing

## SUBPART B: EXPERIENCE RATING

Section  
 2765.200 Effect Of A Successor Employing Unit's Failure To Notify The Director Of Its Succession  
 2765.210 Prohibition On Withdrawal Of Joint Application For Partial Transfer Of Experience Rating Record  
 2765.225 Relationship For Privilege In Order To Have A Predecessor Successor Relationship  
 2765.228 No Requirement For Continuous Operation In Order For A Predecessor Successor Relationship To Exist  
 2765.230 Effect Of A Transfer Of Physical Assets On A Finding That A Predecessor Successor Relationship Exists

## SUBPART C: BENEFIT CHARGES

Section  
 2765.325 Application Of "30 Day" Requirement For Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act  
 2765.326 Requirement For A Separation Or A Reduction In The Work Offered In Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act  
 2765.328 What Constitutes A Day For Purposes Of The "30 Day" Requirement In Section 1502.1 Of The Act  
 2765.329 Application Of "30 Day" Requirement For Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act For Benefit Years Beginning On Or After January 1, 1993  
 2765.330 Chargeability Where The Individual Is Discharged As A Result Of His Incarceration  
 2765.332 Effect Of Ineligibility Under Section 602(B) On Chargeability Under Section 1502.1 Of The Act  
 2765.333 Effect Of Ineligibility Under Section 612 On Chargeability Under Section 1502.1 Of The Act  
 2765.334 Effect Of Ineligibility Under Section 614 On Chargeability Under Section 1502.1 Of The Act  
 2765.335 Procedural Requirements And Right Of Appeal

AUTHORITY: Implementing and authorized by Sections 206.1, 212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701, and 2600 of the Unemployment Insurance Act [820 ILCS 405/206.1, 212, 302, 500, 601, 602, 603, 612, 701, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701, and 2600] (see Public

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Act 91-0890).

SOURCE: Adopted at 6 Ill. Reg. 3863, effective March 31, 1982; amended at 7 Ill. Reg. 13266, effective September 28, 1983; recodified at 8 Ill. Reg. 15027; amended at 11 Ill. Reg. 3972, effective February 23, 1987; amended at 11 Ill. Reg. 11743, effective June 26, 1987; amended at 11 Ill. Reg. 12882, effective July 22, 1987; emergency amendment at 12 Ill. Reg. 225, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11740, effective July 5, 1988; amended at 12 Ill. Reg. 17342, effective October 12, 1988; amended at 12 Ill. Reg. 20484, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 11911, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17410, effective October 30, 1989; amended at 14 Ill. Reg. 6218, effective April 16, 1990; amended at 14 Ill. Reg. 19886, effective November 29, 1990; amended at 15 Ill. Reg. 165, effective December 28, 1990; amended at 15 Ill. Reg. 11122, effective July 19, 1991; amended at 16 Ill. Reg. 2131, effective January 27, 1992; amended at 16 Ill. Reg. 12165, effective July 20, 1992; amended at 17 Ill. Reg. 308, effective December 26, 1992; amended at 17 Ill. Reg. 614, effective January 4, 1993; amended at 17 Ill. Reg. 10275, effective June 29, 1993; emergency amendment at 17 Ill. Reg. 13801, effective August 20, 1993, for a maximum of 150 days; emergency expired January 1, 1994; amended at 18 Ill. Reg. 14952, effective September 13, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16113, effective November 13, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4307, effective February 29, 1996; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

## Section 2765.5 Definitions

For the purposes of this Part, the following terms shall have the meaning as defined hereunder:

"Act" means the Unemployment Insurance Act, as amended [920 ILCS 405] ~~4433-Rev-Stat-1991; chs. 487, para. 360 et seq.; 7.~~

~~"Client" means an individual or entity which has contracted with an employee, leasing company, or company to supply it with one or more workers to perform services on an on-going rather than a temporary basis.~~

~~"Contributing employer" also known as a regular employer, pays contributions at a specified percentage of the taxable wages paid to individuals performing services in covered employment.~~

~~"Employee-leasing company" means an individual or entity which contracts with a client to supply one or more workers to perform services for the client on an on-going rather than a temporary basis.~~

## DEPARTMENT OF EMPLOYMENT SECURITY

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"FUTA" means the Federal Unemployment Tax Act, 26 USC 4-5-e- 3301 through 3311.7

"Reimbursable employer" is a nonprofit organization as defined in Section 211.2 of the Act or any local governmental entity as determined in Section 211.1 of the Act which elects to make payments in lieu of contributions.7

"Unemployment taxes" are the contributions paid by contributing employers and the payment in lieu of contributions paid by reimbursable employers.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS HEALTH CARE COST CONTAINMENT COUNCIL

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1) Heading of the Part: Data Collection

2) Code Citation: 77 Ill. Adm. Code 2510

3) Section Numbers: Proposed Action:  
2510.60 Amendment  
2510.70 Amendment

4) Statutory Authority: Implementing Article IV and authorized by Section 2-3 of Article II of the Illinois Health Finance Reform Act (20 ILCS 2215/Art. IV and 2-3)

5) A Complete Description of the Subjects and Issues Involved: The amendments allow the agency to perform upgrades regarding special study requests and agency quarterly reports. The proposed amendments will allow the agency to upgrade quarterly reports to include utilization as well as cost trends for the State and update the pricing mechanism for data sales and controlled re-release of agency data by purchasers under special study requests.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this amendment contain an incorporation by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
2510.10	Amendment	24 Ill. Reg. 15349
2510.40	Repeal	24 Ill. Reg. 15349
2510.50	Amendment	24 Ill. Reg. 15349
2510.55	Amendment	24 Ill. Reg. 15349
2510.80	Amendment	24 Ill. Reg. 15349
2510.90	Amendment	24 Ill. Reg. 15349
APPENDIX F	Amendment	24 Ill. Reg. 15349
APPENDIX G	Amendment	24 Ill. Reg. 15349
APPENDIX H	Amendment	24 Ill. Reg. 15349
APPENDIX I	Amendment	24 Ill. Reg. 15349

10) Statement of Statewide Policy Objectives: This rulemaking neither creates nor expands a state mandate.

11) Time, Place and Manner in Which Interested Persons May Comment on This Rulemaking: Comments may be submitted in writing within 45 days after this issue of the *Illinois Register* to:

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Norman Roughley  
 Supervisor, Health Care Industry Relations  
 Provider Assistance Division  
 Illinois Health Care Cost Containment Council  
 4500 South Sixth Street Road, Suite 215  
 Springfield, Illinois 62703-5118  
 217/786-7001, extension 108

12) Initial Regulatory Flexibility Analysis:

- A) Type of Small Business affected: Hospitals and licensed ambulatory surgical treatment centers
- B) Reporting, Bookkeeping or other procedures required for compliance:  
 None additional
- C) Type of professional skills necessary for compliance: None additional

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated at the time of submission of the last 2 agendas.

The full text of the Proposed Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH  
 CHAPTER XI: ILLINOIS HEALTH CARE COST CONTAINMENT COUNCIL  
 PART 2510  
 DATA COLLECTION

Section	Purpose
2510.10	Outside Contractor
2510.20	Collection and Submission of Hospital Financial Data
2510.30	Submission of Medicaid Cost Reports
2510.40	Collection of Information on Uniform Billing Form
2510.50	Report of Inpatient Discharges
2510.55	Quarterly Reports
2510.60	Special Studies and Analysis
2510.70	Confidentiality
2510.80	Format of the Financial Data Report
2510.85	Format of the Financial Data Report
2510.90	Hospital Review

APPENDIX A	Illinois Health Care Cost Containment Council Annual Financial Data Report
APPENDIX B	UB-82 Magnetic Media Record Format
APPENDIX C	UB-82 Uniform Bill Data Fields
APPENDIX D	UB-92 Magnetic Media Record Format
APPENDIX E	UB-92 Uniform Bill Data Fields
APPENDIX F	Ambulatory Surgical Magnetic Media Record Format Option 1/UB92 Form
APPENDIX G	Ambulatory Surgical Data Fields Option 1/UB92 Form
APPENDIX H	Ambulatory Surgical Magnetic Media Record Format Option 2/1500 Form
APPENDIX I	Ambulatory Surgical Data Fields Option 2

**AUTHORITY:** Implementing Article IV and authorized by Section 2-3 of Article II of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. IV and 2-3].

**SOURCE:** Adopted and codified at 9 Ill. Reg. 12726, effective August 5, 1985; amended at 10 Ill. Reg. 18790, effective October 17, 1986; amended at 11 Ill. Reg. 1574, effective January 2, 1987; amended at 12 Ill. Reg. 6102, effective March 21, 1988; amended at 13 Ill. Reg. 334, effective December 30, 1988; amended at 14 Ill. Reg. 2078, effective January 19, 1990; amended at 16 Ill. Reg. 8980, effective June 3, 1992; emergency amendment at 16 Ill. Reg. 19210, effective November 25, 1992, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 2031, effective January 29, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 9700, effective June 10, 1993; amended at 17 Ill. Reg. 9896, effective June 10, 1993; emergency amendment at 17 Ill. Reg. 14112, effective August 10, 1993, for a maximum of 150 days; emergency amendment at 18 Ill. Reg. 5300, effective March 21, 1994; emergency amendment at 18 Ill. Reg. 14809, effective September 12, 1994, for a



## ILLINOIS HEALTH CARE COST CONTAINMENT COUNCIL

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maximum of 150 days; amended at 18 Ill. Reg. 16810, effective November 4, 1994; amended at 19 Ill. Reg. 1825, effective February 6, 1995; amended at 19 Ill. Reg. 9113, effective June 23, 1995; emergency amendment at 19 Ill. Reg. 15097, effective October 11, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16046, effective November 17, 1995; amended at 20 Ill. Reg. 4727, effective March 6, 1996; emergency amendment at 21 Ill. Reg. 3277, effective February 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 8964, effective July 1, 1997; emergency amendment at 21 Ill. Reg. 12661, effective September 2, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1325, effective December 23, 1997; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 2510.60 Quarterly Reports

The Council shall require and the designated corporation, association or entity, if applicable, shall prepare quarterly basic reports in the aggregate on health care costs and utilization and trends in Illinois. The Council shall provide these reports to the public, if requested. These shall include, but not be limited to, comparative information on average charges, total and ancillary charge components, length of stay on diagnosis specific and procedure specific cases, and number of discharges, compiled in aggregate by hospital, by licensed ambulatory surgical treatment center, by diagnosis, and by primary payor category.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 2510.70 Special Studies and Analysis

- a) In addition to the quarterly reports, the Council shall respond to requests by agencies of government and organizations in the private sector for special studies and analysis (hereafter referred to as a "compilation of data") collected pursuant to Sections 2510.30 and 2510.50 of this Part.
- b) For purposes of this Part, a compilation of data is defined as a magnetic tape, diskette, CD-ROM, cartridge, or a hard copy report containing selected non-confidential data elements.
- c) The Council shall not release any information for special studies and analysis which is not permitted to be released for other purposes by the Act. No patient identifiable information shall be released except as hospital specific financial information shall be released except as provided in Section 2510.30 of this Part. Only the information which can be released under the requirements of the Act shall be released. Special studies and analysis shall not be subject to the Freedom of Information Act.
- d) All requests for compilations of data shall be made in writing to the Executive Director. The written request shall at least contain the name, address, and telephone number of the requester; a description of

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the requested compilation of data; a short, plain statement of the reason for the request; and the relationship of the requested compilation to a legitimate purpose; and an identification of the parties to whom data requestors intend to re-release and/or sell the requested data (or any subset thereof) and the format of such re-release or sale. A "legitimate purpose" is a purpose consistent with the intent, policies, and purposes of the Act.

- e) The Council shall review each request for a compilation of data and determine whether to approve or deny the request. The Council shall notify the public of requests made for compilations by listing the requester, and providing a short description of the request on its official meeting agenda. Such requests shall be approved only by the vote of a majority of the members of the Council who shall designate the form in which the information shall be made available. The approval or denial by the Council of requests for compilations of data shall be within the discretion of the Council. The Council may deny a request for a compilation of data for reasons including, but not limited to, unavailability of data; the requested compilation of data is already available from the Council or another source; the requested compilation of data would endanger patient confidentiality; or the request is not related to a legitimate purpose. No person or group may request such compilation of data concerning another person or group.

- f) The Council shall notify the requester in writing of its decision. Denial of a request shall include a brief explanation of the reason for the denial. If a request is approved, delivery of the data shall be subject to receipt by the Council of a signed confidentiality and release agreement in form and substance satisfactory to the Council.

- g) The Council shall also determine a fee to be charged to the requesting entity which will cover at a minimum the direct and indirect costs of acquiring the information and of developing and producing the data product reports or special analyses. The Council shall establish prices by rule (see subsection Section-2510-70(g)(4) 457) for each category of purchasers for each product and for the various terms under which such purchasers may wish to acquire products.

## 1) Definition of Terms

## A) Public Release Product

Products which the Council has determined may be released by staff without specific Council action on each order are referred to as Public Release Data Products. These products are said to be "ordered" by the customer.

## B) Controlled Release Product

Products which the Council has determined may not be released by staff without specific Council action on each order are to be referred to as Controlled Release Data Products. These products are said to be "applied for" by the customer.

## C) Data Products

Data Products are to be made available in units covering a

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time period to which the data are applicable. Orders, applications, prices and release conditions shall be specific to the unit of product concerned. Unit or product for Public Dataset, Universal Dataset, and Research Oriented Dataset shall be calendar quarter. Unit of product for the Patient Origin DataSet shall be calendar year.

## D) Purchase

Data Products may be acquired for the single purpose and for the sole use of the ordering or applying entity. The Council filling an order or granting an application to a given entity shall be construed as giving permission for use only for the unit of product requested and, in the case of Controlled Release products, only for the purposes originally applied for. In granting such approval, the Council shall not be construed as giving permission for the ordering or applying entity to use the data released on behalf of any client, member, organization or other entity not specified in the original order or application.

## B) License

The Council may grant applications from corporations, vendors, or other organizations who wish to be licensed to acquire Council data and to release the information therein or derived therefrom to third parties in the case of such license the Council will grant explicit right to re-release excluded in subsection (g)(1)(B) Purchase above. Licenses will be granted for specific purposes and classes of potential customers of the customer. Granting of a license for one purpose or one class of licensee shall not be construed as permission to release information to any other class of customer or for any other purpose. Licensees shall bear the burden of reasonable costs for the auditing of their accounts by the State or its agent for the purpose of ascertaining whether the terms of the license have been complied with.

## 2) Council Data Product Categories

## A) Public Release Products

For the purposes of this Part, the Public DataSet, Patient Origin DataSet, and Custom Reports or DataSets based upon them are to be regarded as Public Release Products.

## B)

Controlled Release Products  
For the purposes of this Part, the Universal DataSet, Research Oriented DataSet, and Custom Reports or DataSets based upon them are to be regarded as Controlled Release Products.

## 3) Categories of Purchasers/Licensees and the Terms of Payment

## A) Category I: Commercial

Any corporation, association, coalition, person, entity or individual, regardless of whether that individual would also

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fit any of the other categories listed in this subsection (g)(3), that resells or redistributes any of the data or products (or any subset thereof) obtained from the Council for any revenue is engaged in commercial use of the data or products and shall pay for the data or products at the commercial-reselling rate. Any corporation, association, coalition, person, entity or individual seeking to obtain data or products (or any subset thereof) from the Council is presumed to be acquiring the data or products for a commercial use unless the requestor can prove otherwise to the satisfaction of the Council. If non-commercial use is proven to the satisfaction of the Council, the requestor shall be classified into Category II through Category V for the purpose of fee determination.

## B) Category II Category---i: Private and For-Profit

Organizations, corporations, associations, coalitions, and other entities which are not chartered by the State or Federal Government are deemed to fulfill general or specific government functions and which function in whole or in part for the benefit of the owners, members, or sponsors of the corporation or organization shall fall into this category. Such purchasers and applicants shall pay the full price set by the Council for the unit of product concerned.

## C) Category III Category---ii: Illinois General Assembly and the Executive Office of the Governor

In consideration of the public information mandate of the Council and the contribution of the General Revenue Fund to the activities of the Council, this category of purchaser shall receive Council reports and data products free of charge.

## D) Category IV Category---iii: Illinois Government and Educational Institutions Education

Other units of Illinois State government, Illinois county and local government, and Illinois public and private as well as State-run educational institutions shall be deemed to fall into this category. They shall be granted a 50% discount from the rate made above for Category i--customers. An exception to this policy is that State of Illinois agencies (IDPA, IDPH, IDOI, etc.) shall receive existing agency data products free of charge. All other requests made by State of Illinois agencies will not be free, but shall be subject to the 50% discount. Other exceptions to this policy may be made when there is a working agreement between the Council and a requesting entity entered under Subsection (g)(9)(B). When such an agreement is in effect, it shall govern the charge which shall be made to the requesting entity.

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E) Category V - iv: Non-Illinois Other Government, Non-Illinois Educational Institutions Education, All and Non-Profit Organizations, and All Graduate Students. The Federal Government, Governments of other states, and other political subdivisions outside of the State of Illinois, non-Illinois private educational institutions, all Illinois, non-profit organizations, and all graduate students and non-profit organizations, requesting data for research purposes shall be deemed to fall into this category. They shall be granted a 25% discount from the rate made above for category I customers. Non-profit organizations corporations that which purchase data materials or license:

i) on behalf, either in whole or in part, or ii) for the substantial benefit, of for-profit entities shall not be deemed to be included in this category. Rather, such entities will be included in Category I. Exceptions to this policy may be made when there is a working agreement between the Council and a requesting entity entered under subsection (g)(9)(B). When such an agreement is in effect, it shall govern the charge which shall be made to the requesting entity.

## B) Category VI - Hospital Data Requests

Illinois hospitals requesting access to final edited claims information from the Council for purposes other than the hospital review process as required by Statute, Rule, and agreement, may purchase this data from the Council. Prices for hospitals for these other products shall be as put forth for Category II, except in cases in which other agreements may be in place.

If such non-commercial use is proven to the satisfaction of the Council, the requestor shall be classified into Category II through Category VI for the purposes of fee determination. The Council, acting upon the evidence presented and the completion of all questions on the data subscription request form, shall determine the category in which any given customer shall be placed.

## E) Category VII. Hospitals

Illinois hospitals requesting access to final edited claims information from the Council for purposes other than the hospital review process as required by statute, rule, and agreement, may purchase this data from the Council. Prices for hospitals for these other products shall be as put forth for Category II, except in cases in which other agreements may be in place.

If such non-commercial use is proven to the satisfaction of the Council, the requestor shall be classified into Category II through Category VI for the purposes of fee determination. The Council, acting upon the evidence presented and the completion of all questions on the data subscription request form, shall determine the category in which any given customer shall be placed.

## 4) Volume Discounts

The Council shall provide for a 25% discount if a total of--

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quarters--are ordered or applied for in the case of products for which the unit of product is a calendar quarter--

## 45) Category I Prices

Subject to discounts as set forth in subsections (g)(3) and (g)(4) above, customers shall pay all or part of the Class I fees set forth in the table below in accordance with the Customer's category as outlined in subsection (g)(3).

Product	Category I - Price
Public DataSet (Paper)	\$7500/quarter
Public DataSet (Dataset/Region)	\$750/Region
Universal Dataset	\$9000/quarter
Research-Oriented-Dataset	\$9000/quarter
Patient-Origin-Dataset	\$4500/calendar-year
Hospital-Data-Requests	\$500/quarter
DRG-Analyst	\$800/quarter
	PRICE PER QUARTER
	PRICE PER YEAR

## Category II - Private and For-Profit Organizations

Product: Public DataSet	\$2,000	\$6,000
Product: Universal Dataset	\$3,000	\$9,000
Product: DRG Analyst	\$ 800	\$2,400
Product: Quarterly Reports	\$ 100	\$ 300

## Category III - Illinois General Assembly and the Executive Office of the Governor

Product: Public DataSet	Free	Free
Product: Universal Dataset	Free	Free
Product: Research Oriented Dataset	Free	Free
Product: Quarterly Reports	Free	Free

## Category IV - Illinois Government and Educational Institutions

Product: Public DataSet	\$ 75	\$250
Product: Universal Dataset	\$100	\$300
Product: Research Oriented Dataset	\$200	\$600
Product: State Inpatient	---	\$100



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## Dataset

Product: DRG Analyst \$ 50  
 Product: Quarterly Reports \$ 30

\$150  
 \$ 90

## Category V - Non-Illinois Government, Non-Illinois Educational Institutions, All Non-Profit Organizations, Non-Illinois Graduate Students

## Product: Public Dataset

Non-Profit \$1,500 \$4,500  
 Non-IL Gov/Ed \$ 300 \$ 900  
 Grad Students \$ 20 \$ 60

## Product: Universal Dataset

Non-Profit \$2,000 \$6,000  
 Non-IL Gov/Ed \$ 400 \$1,200  
 Grad Students \$ 25 \$ 75

## Product: Research Oriented Dataset

Non-IL Gov/Ed \$ 500 \$1,500  
 Grad Students \$ 50 \$ 150

## Product: State Inpatient Dataset

Non-Profit --- \$900  
 Non-IL Gov/Ed --- \$900  
 Grad Students --- \$200

## Product: DRG Analyst

Non-Profit \$600 \$1,800  
 Non-IL Gov/Ed \$ 200 \$ 600  
 Grad Students \$ 15 \$ 45

## Product: Quarterly Reports

Non-Profit \$75 \$225  
 Non-IL Gov/Ed \$120 \$120  
 Grad Students \$10 \$ 30

56) Use for Additional Purpose Requires Additional Approval and Fee  
 The prices and discounts set forth in this Part pertain to all applications for use as specified in the data subscription request form. A purchaser having once paid the appropriate fee for a particular one use must re-apply for use for any other purpose and make payment as shown in this Part for the additional use.

## 67) Revisions in Pricing

The Council will, from time to time, examine and may modify the prices set forth in this Part. All data products for the discharge time periods 1987 and beyond shall be priced according to this Part.

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## 78) Payment Terms

Payment by check or money order is required at the time the order or application is filed with the Council. The Council shall refund payments to applicants to which the Council votes not to release the data which were applied for.

89) Council Not Required to Perform Studies  
 While this Part allows for applicants to request specific formats and report layouts, the Council shall not accept applications to provide such unless it deems that it is in the best interest of the Council to do so, and analysis shall be provided by the Council only when appropriate.

94a) Special Data Request Fee Structure  
 Data requests accepted by the Council will be processed as follows:

A) Simple Requests  
 These are "no fee" inquiries that take less than three hours to complete, are reasonable in length and can be retrieved by staff from existing reports on their computers. Subject to other resource constraints, such requests shall be completed for consumers for personal use and for commercial entities as a one-time report.

B) Complex Requests  
 These are "for fee" inquiries that exceed guidelines for Simple Requests, require programmer time to extract the information requested and are subject to other resource constraints. A \$50 non-refundable application fee must be submitted with each application. The \$50 application fee will be deducted from the final cost of the data should the applicant agree to accept IHCCC's charge proposal. The Council may grant exceptions to this policy when there is a working agreement between the Council and a requesting entity. When such an agreement is in effect, it shall govern the charge which shall be made to the requesting entity. In addition, discounts to the charges assessed for inquiries of this sort of service will apply with those set forth in subsections (94b) and (94c) above.

The charges for compiling the data will be based on the resources required to produce the request and are based on the table below.

Resources	Hours/Units	Cost Per Hour
Programming	1-5	\$100 \$-80
Research	1	\$ 62 \$-50
Administrative	1	\$ 25 \$-20
Media*	1	\$ 12 \$-10
CPU Usage**	1	\$320 \$255

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\*Media: 1 unit=diskettes, CD-ROM, cartridge, tape  
 \*\*CPU: 1 unit=CPU seconds to process 1 quarter of data  
 (approximately 0.75 million records)

- 11) Licensing Standards and Procedures  
 Pursuant to subsection (f)(1)(B) above, the Council may grant licenses to entities wishing to re-release data acquired from the Council or information derived therefrom. Such licenses are to be given for specified products and units of product. Licenses shall also be specific as to the purpose for which the data will be used by the licensee and those third parties to whom the licensee anticipates re-releasing information. Licenses for controlled release products shall be specific as to the class of third parties to whom the licensee may release the information. Having been granted permission for one product, unit of product, purpose or class of customer/third party, a licensee will need to re-apply and make additional payment for additional products, units of product, purposes and classes of customers. In addition, for each product for which permission is granted, the licensee shall cite the Council as the source of the data and indicate to each customer (third party purchaser) how datasets in part or in full can be obtained directly from the Council.

A) Fee Basis  
 Licenses shall be granted for a base fee to be paid by the licensee regardless of the number of third parties to whom the licensee intends to release the information as well as per customer fee for each customer at the time of application for license. The prospective licensee shall state who the prospective customers are and pay the base fee and per customer fees known at the time of application. Subsequently, the licensee shall pay the per customer fee to the Council in advance of releasing information to the customer for each customer to whom the licensee releases information.

B) Public and Controlled Release Licenses  
 Licenses of Public Release Products may make the release to third parties contingent only upon making payment to the Council and good standing with the Council in performance of stipulated responsibilities in the license agreement. Licenses of Controlled Release Products must also have advance Council permission for release to each individual licensee, unless otherwise agreed to by the Council in the license agreement. In addition, release of partial HECB datasets will be considered by the Council on a case-by-case basis.

- 6) Per-Customer Fee by Product  
 Per-Customer Fee will be the greater of:  
 1) 20% of the licensee's gross receipts or  
 2) 20% of the Council selling price for such data to the

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customer:  
 Per-customer fees shall not be subject to discounts as set forth in subsections (g)(3) and (g)(4) above.  
 12) Revisions in Licenses Fees  
 The Council will, from time to time, examine and may modify the fees set forth in this Part.

A) On the effective date of this rulemaking, all licenses for the discharge time periods of 1991 through 1991 shall have the prices as set forth in this Part.  
 B) The Council shall make fee changes for subsequent calendar years coincident with availability of data for the first quarter of the newest calendar year.

C) Fees set for the newest calendar year shall not apply to licenses already in force for prior discharge years.  
 h) Basis of Charge for Other Services and Products of the Council

- 1) Inpatient Discharge Data Quarterly Reports  
 A) The hardcopy version of these reports is to be made available on an annual (four quarter) subscription basis for \$95. Requests for all or part of quarterly reports which are made on an ad hoc as opposed to subscription basis shall be filled at a charge of \$95 per quarter.  
 B) The diskette version of these reports is to be made available on an annual (four quarter) subscription basis for \$225. Requests for all or part of quarterly reports which are made on an ad hoc as opposed to subscription basis shall be filled at a charge of \$95 per quarter.  
 C) Only the Category III discount to the Office of the Governor and the General Assembly is to be applied to these products.

2) Seminars, Colloquia, and Other Meetings  
 In order to offset the costs of presenting informational programs to the public and to Council constituencies, the Council may charge a fee to participants covering the reasonable costs of presentation materials and equipment, guest presenters expenses, travel expenses of Council Staff, and meeting facilities. At the request of participants, the Council may also negotiate group rates for accommodations and amenities at such meetings and pass the cost and overhead along to participants in the fee charged for attendance.

23) DRG Analyst  
 All categorical prices and annual discounts shall apply to this product.

34) Other Services and Products  
 To the extent that the General Assembly appropriates to the Council from the Special Studies Revolving Fund moneys sufficient to perform other services and provide other products not conflicting with the intent of the Health Finance Reform Act and this Chapter XI Administrative Rules, the Council may provide such products and services for a fee. The fees to be assessed

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shall be reasonable in view of the value of services performed, shall be collected by methods and procedures approved by the Executive Director, and shall cover the full cost of providing the goods and services.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

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1) Heading of the Part: Services

2) Code Citation: 89 Ill. Adm. Code 590

3) Section Numbers: Proposed Action:

590.310 Amend  
590.315 New  
590.320 Amend  
590.340 Amend  
590.350 Amend

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]], and authorized by Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

5) A Complete Description of the Subjects and Issues involved: This rulemaking amends various Sections of this rule to address changes in the federal Act. More significantly, the "Self-Employment Program" for VET customers has been revised to clarify eligibility requirements. Also the outcome of such a program has been given specific earning levels that must be attainable.

6) Will this proposed rule replace an emergency rule currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
590.20	Amend	24 Ill. Reg. 10049
590.40	Amend	24 Ill. Reg. 10049
590.70	Amend	24 Ill. Reg. 10049
590.80	Amend	24 Ill. Reg. 10049
590.130	Amend	24 Ill. Reg. 10049
590.220	Amend	24 Ill. Reg. 10049
590.230	Amend	24 Ill. Reg. 10049
590.240	Amend	24 Ill. Reg. 10049
590.250	Amend	24 Ill. Reg. 10049
590.270	Amend	24 Ill. Reg. 10049
590.280	Amend	24 Ill. Reg. 10049
590.290	Amend	24 Ill. Reg. 10049
590.310	Amend	24 Ill. Reg. 10049
590.600	Amend	24 Ill. Reg. 10049

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking



## DEPARTMENT OF HUMAN SERVICES

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does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
3rd Floor Harris Bldg.  
Springfield IL 62762  
Telephone number: (217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

## 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary form compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated at the development of the Regulatory Agenda.

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 590  
SERVICES

## SUBPART A: APPLICABILITY

Section	General Applicability
590.10	Availability of Services
590.20	Effect of Financial Status on Services
590.30	Effect of Comparable Benefits
590.35	Choice of Service Providers
590.40	

## SUBPART B: MEDICAL, PSYCHOLOGICAL AND RELATED SERVICES

Section	Provision of Services
590.50	Qualification of Medical and Psychological Service Providers
590.60	Treatment of Acute Conditions
590.70	Medication and Treatment
590.80	Hearing Aids
590.90	Binaural Hearing Aids
590.100	Speech and Language Services
590.110	Low Vision Aids
590.120	Mental Restoration Services
590.130	Heart Surgeries
590.140	Kidney Transplant and Related Services
590.150	Chiropractic Services
590.160	Prosthetic and Orthotic Device
590.170	Wheelchairs
590.180	Prohibited Services
590.190	

## SUBPART C: TRAINING AND RELATED SERVICES

Section	Provision of Services
590.200	Qualification of Training Facilities/Institutions
590.210	Purpose and Types of Training
590.220	Financial Guidelines for Training Services
590.230	Graduate School Training
590.240	Choice of Training Facility/Institution
590.250	Summer School
590.260	Grades
590.270	Health Status
590.280	On-the-Job Training
590.290	

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590.300 Default on Educational Loans

SUBPART D: SELF EMPLOYMENT PROGRAM TOOLS--EQUIPMENT--SUPPLIES-AND INITIAL-STOCK

Section  
 590.310 Provision of Services  
 590.315 Eligibility  
 590.320 Self-Employment Program  
 590.330 Services/Goods not Available  
 590.340 Bidding Requirements  
 590.350 Recovery of Tools, Equipment, Supplies and Initial Stock  
 590.360 Transfer of Title  
 590.370 Limitation of Financial Participation (Repealed)  
 590.370

SUBPART E: VEHICLE ADAPTATION AND ENVIRONMENTAL MODIFICATION

Section  
 590.375 Provision of Services  
 590.380 Vendor Requirements  
 590.390 Bidding Requirements  
 590.400 Vehicle Adaptation  
 590.410 DHS-ORS Financial Participation in Van Adaptation  
 590.420 Environmental Modification  
 590.430 Written Agreements for Environmental Modification  
 590.440 Compliance with Capital Development Board Specifications  
 590.440

SUBPART F: PERSONAL SUPPORT SERVICES AND AUXILIARY AIDS

Section  
 590.450 Provision of Services  
 590.460 Types of Services  
 590.470 Services/Equipment  
 590.480 Qualifications for Services Provided by Individuals  
 590.490 Payment for Support Services Provided by Individuals and Conditions of Service Provision

SUBPART G: COMPUTER EQUIPMENT AND SENSORY AID LOAN

Section  
 590.500 Provision of Services (Repealed)  
 590.510 Definitions (Repealed)  
 590.520 Purpose of Equipment Loans (Repealed)  
 590.530 Criteria for Loan of Equipment/Aids (Repealed)  
 590.540 Equipment/Aids Loan Request Procedures and Approval Process (Repealed)  
 590.550 Duration of Loans (Repealed)  
 590.560 Maintenance and Return of Equipment/Aids (Repealed)

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590.570 Assistance in Obtaining Permanent Equipment/Aids (Repealed)  
 590.580 Limitations on Available Equipment/Aids (Repealed)

SUBPART H: OTHER SERVICES

Section  
 590.590 Provision of Services  
 590.600 Transportation and Temporary Lodging  
 590.610 Other Goods and Services  
 590.620 Equipment Sets

SUBPART I: PLACEMENT

Section  
 590.630 Provision of Placement Services  
 590.640 Description of Services

SUBPART J: MAINTENANCE

Section  
 590.650 Provision of Services  
 590.660 Definitions  
 590.670 Determination of the Need for Maintenance  
 590.675 Determination of Client Financial Participation in Maintenance  
 590.680 Exceptions to Basic Needs Level

SUBPART K: POST-EMPLOYMENT SERVICES

590.700 Provision of Services  
 590.710 Definitions  
 590.720 Scope of Services

SUBPART L: TRANSITION

590.730 Provision of Services  
 590.740 Definitions  
 590.750 Secondary Transitional Experience Program (STEP)

**AUTHORITY:** Implementing Section 3 of the Disabled Persons Rehabilitation Act (20 ILCS 2405/3) and authorized by Section 5-625 of the Civil Administrative Code of Illinois (20 ILCS 5/5-625).

**SOURCE:** Emergency Rules adopted at 17 Ill. Reg. 11812, effective July 1, 1993, for a maximum of 150 days; adopted at 17 Ill. Reg. 20461, effective November 15, 1993; amended at 18 Ill. Reg. 11275, effective June 30, 1994; emergency amendment at 18 Ill. Reg. 16468, effective October 20, 1994, for a maximum of 150 days; amended at 19 Ill. Reg. 7260, effective May 12, 1995; amended at 19 Ill. Reg. 7435, effective May 19, 1995; amended at 19 Ill. Reg. 10153,

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effective June 29, 1995; amended at 19 Ill. Reg. 10709, effective June 29, 1995; amended at 20 Ill. Reg. 6319, effective April 18, 1996; amended at 20 Ill. Reg. 6523, effective April 18, 1996; amended at 20 Ill. Reg. 10375, effective July 19, 1996; amended at 21 Ill. Reg. 1395, effective January 17, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 201, effective December 15, 1998; amended at 23 Ill. Reg. 7502, effective June 11, 1999; emergency amendment at 24 Ill. Reg. 6728, effective April 14, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 13687, effective August 23, 2000; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART D: SELF EMPLOYMENT PROGRAM TOOLS, EQUIPMENT, SUPPLIES-AND  
INITIATIVES

## Section 590.310 Provision of Services

- a) All services described in this Subpart shall be provided in accordance with the provisions of this Subpart and Subpart A of this Part.
- b) Prior to provisions of any of the services listed in this Subpart, the counselor shall consult with the appropriate regional/central office resource specialist when considering self-employment as an employment goal for a customer client. DHS-ORS participation in such a program must be approved in writing by the Rehabilitation Services Supervisor prior to initiation of an individualized Plan for Employment (IPE) Written Rehabilitation Program (WRP) (89 Ill. Adm. Code 521).
- c) Self-employment is a customer working for oneself in a business selling goods or services for the purpose of making a profit that will allow the customer to achieve an employment outcome.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 590.315 Eligibility

- a) If an option other than self-employment exists that will provide the customer with an opportunity for successful employment outcome, the customer is not eligible for the Self-Employment Program.
- b) To be eligible for participation in the Self-Employment Program the customer must have:
- 1) prior successful business operation experience, or
  - 2) previous formal education and/or training in business and business operation, as indicated by a two or four year degree in business/financial management or a related field.
- c) There shall be documented evidence in the case file that self-employment is a viable employment option for the customer that is consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice of the customer.

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- d) Self-employment shall enable the customer to engage in gainful employment that will generate income at a level equal to or above the earnings level of Substantial Gainful Activity (SGA) as determined annually by the U.S. Social Security Administration for Title II recipients.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 590.320 Self-Employment Program

- a) Those tools, equipment, supplies and initial stock necessary to begin a specific business may be provided to a customer in order for him/her to obtain a successful employment outcome when it has been determined that self-employment is a realistic employment goal for the individual. As with any employment goal, an objective of self-employment shall be to enable the individual to engage in gainful employment which will generate income at a level to meet the majority of his/her anticipated living expenses. Further, the vocational goal must be reasonable for the individual based on his/her anticipated potential for success. The determination of potential for success shall be based on the customer's prior successful business operation experience and/or previous formal education and/or training in business and business operation, as indicated by a two or four year degree in business/financial management or a related field, and/or documented evidence that self-employment is a viable employment option for the customer. All tools, equipment, supplies and initial stock purchased for a customer must be specifically listed in the customer's IPE WRP (89 Ill. Adm. Code 521).
- b) The services described in this Subpart shall not be provided to any customer when as a result of the Comprehensive Assessment of Rehabilitation Needs (89 Ill. Adm. Code 553.106) Assessment, there is evidence that an option other than self-employment exists which will provide the customer with an equal or greater opportunity for a successful employment outcome. Determination of success must be made by the customer and counselor during the Assessment phase of case development.
- b) DHS-ORS shall pay up to 50% of the eligible costs of the customer's Self-Employment Program.
- 1) The cost shall not include those listed as ineligible in Section 590.330 or any in-kind contributions.
  - 2) This percentage shall be applied before the application of the DHS-ORS financial participation (see 89 Ill. Adm. Code 562).
  - 3) All required financial participation shall be applied to the DHS-ORS share of the cost.
- c) DHS-ORS shall pay up to 100% of any Self-Employment Program cost associated with accommodating the customer's disability.
- d) Prior to the provision of such services, the customer must complete a

## DEPARTMENT OF HUMAN SERVICES

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business plan for development of the business. The business plan shall include, but not be limited to:

- 1) a full description of the proposed business or service operation;
- 2) the customer's qualifications for, interest in, and need for self-employment as an employment outcome as evidenced by the customer's Assessment;
- 3) the estimated total capital needs for the establishment of the business and evidence of the availability of such funds (i.e., personal account statements, verification of loan availability, complete listing of all personal liabilities);
- 4) financial estimates for the first 12 months of operation;
- 5) plans for business development and marketing;
- 6) evidence the proposed business has a reasonable chance of success (i.e., provide net income to meet a majority of the customer's living expenses) as established by:
  - A) market surveys;
  - B) signed statements from consultants and experts that the business has a reasonable chance of success based on market conditions, demand and competition; and
- 7) commitment for additional financing necessary to make the business operational.

g) During the first six months of operation, the customer must provide monthly statements to the counselor detailing the financial activity of the business, including a statement of profit or loss.

h) At a minimum after the first three months and six months of operation, the customer must provide the counselor full detailed inventory of all tools, equipment, supplies and stock purchased to establish the business, regardless of the purchaser. Frequency of the inventory shall be determined by the counselor and appropriate DHS-ORS staff.

i) All tools, equipment, supplies and initial stock shall be maintained by the customer in good order. The customer is expected to maintain all tools, equipment, supplies and initial stock in like-new condition. The customer must ensure all proper up-keep and maintenance is done as specified by the manufacturer. In the event of break-down or defect, the customer must have the item repaired. As most items carry a manufacturer warranty, all costs should be covered under such provisions.

j) The customer is expected to maintain and replenish an adequate supply of all initial stock and supplies.

k) DHS-ORS shall maintain title to all tools, equipment, supplies and initial stock purchased with DHS-ORS funds for at least the first six months of operation of the business enterprise. Disposition of the title shall be determined per 89 Ill. Adm. Code 590.350 and 590.360.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 590.340 Bidding Requirements

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a) For the purchase of any tools, equipment, supplies and initial stock, under this Subpart, DHS-ORS shall: ~~1) follow its bidding procedures as required by 44 Ill. Adm. Code 1475--and 2) obtain three or more competitive bids from qualified vendors for any purchase which exceeds \$1,000 500-00 unless the counselor, with input from the customer client, can document that the items item(s) to be purchased are (are) available from fewer than 3 sources. In such case the number of bids attainable shall be sought.~~

b) The lowest bid received shall be selected in each case unless there are documented reasons to reject the lowest bid or the client chooses another bidder and pays the difference between the bids. Documentation to reject the lowest bid shall include, but not be limited to, poor past service from the vendor submitting the lowest bid, the inaccessibility of the vendor for service and repair, or the need to avoid delays in obtaining the items item(s) when the lowest bidder indicates delivery of the items may be prolonged.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 590.350 Recovery of Tools, Equipment, Supplies and Initial Stock

a) DHS-ORS shall retain title to any tools, equipment and supplies purchased for a customer client by DHS-ORS to establish a business.

b) If, after establishment of the business and prior to conveyance of title of all tools, equipment, supplies and initial stock purchased by DHS-ORS, the business does not succeed or the customer client fails to cooperate by not providing all reports and records required by this Subpart and/or deliberately misrepresents or has misrepresented necessary information, reports, and records for the purpose of receiving services, DHS-ORS shall make full recovery of all tools, equipment and remaining supplies and initial stock purchased by DHS-ORS for establishment of the business. Fair cash value shall be acceptable in lieu of recovering the tools, equipment, supplies and initial stock.

c) All remedies available to DHS-ORS, including court action, shall be taken by DHS-ORS if the customer individual is unwilling to return the items.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 590.360 Transfer of Title

If, after completion of at least the first six months the development of a business enterprise, the documentation provided by the customer client and verified by the counselor indicates the customer's client's success and verification that the enterprise has produced profits to the customer equal to



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SGA for at least 9 months an expectation that the business--enterprise--can--be expected--to--produce a major portion of the client's living expenses, title to any tools, equipment, supplies and initial stock purchased as part of the customer's IPE client's IWP (89 Ill. Adm. Code 572) shall may be transferred by DHS-ORS to the customer client.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## POLLUTION CONTROL BOARD

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1) Heading of the Part: Nitrogen Oxides Emissions

2) Code Citation: 35 Ill. Adm. Code 217

3) Section Numbers: Proposed Action:

217.700 New

217.702 New

217.704 New

217.706 New

217.708 New

217.710 New

217.712 New

4) Statutory Authority: Implementing Sections 9, 9.1, 9.9, and 10 and authorized by Section 27 and 28.8 of the Environmental Protection Act (Act) (415 ILCS 5/9, 9.1, 9.9, 10, 27, and 28.5).

5) A Complete Description of the Subjects and Issues Involved: This rulemaking is explained in more detail in the Board's opinion of October 19, 2000, R01-16, available from the address in item 11, below. The rulemaking was initiated by a proposal filed by the Illinois Environmental Protection Agency (Agency) under the fast-track rulemaking provision of Section 28.5 of the Act. In summary, these amendments are proposed to control the emissions of nitrogen oxides (NOx) from fossil fuel-fired electrical generating units (EGUs) during the period May 1 through September 30 of each year, beginning in 2003. The proposed amendments are intended to meet the obligation of the State of Illinois under the Clean Air Act, 42 U.S.C. § 7401 et seq. (CAA), to submit control strategies necessary to demonstrate attainment of the 1-hour ozone National Ambient Air Quality Standard (NAAQS) for the Metro-East/St. Louis moderate ozone nonattainment area (NAA). This proposal amends 35 Ill. Adm. Code 217.Subpart V, Electric Power Generation.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Number	Proposed Action	Illinois Register Citation
217.100	Amend	24 Ill. Reg. 11493
217.101	Amend	24 Ill. Reg. 11493
217.102	Amend	24 Ill. Reg. 11493
217.104	Amend	24 Ill. Reg. 11493
		24 Ill. Reg. 13579

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217-600	New	24 Ill. Reg. 13579
217-602	New	24 Ill. Reg. 13579
217-604	New	24 Ill. Reg. 13579
217-606	New	24 Ill. Reg. 13579
217-608	New	24 Ill. Reg. 13579
217-610	New	24 Ill. Reg. 13579
217-750	New	24 Ill. Reg. 11493
217-752	New	24 Ill. Reg. 11493
217-754	New	24 Ill. Reg. 11493
217-756	New	24 Ill. Reg. 11493
217-758	New	24 Ill. Reg. 11493
217-760	New	24 Ill. Reg. 11493
217-762	New	24 Ill. Reg. 11493
217-764	New	24 Ill. Reg. 11493
217-766	New	24 Ill. Reg. 11493
217-768	New	24 Ill. Reg. 11493
217-770	New	24 Ill. Reg. 11493
217-772	New	24 Ill. Reg. 11493
217-774	New	24 Ill. Reg. 11493
217-776	New	24 Ill. Reg. 11493
217-778	New	24 Ill. Reg. 11493
217-780	New	24 Ill. Reg. 11493
217-782	New	24 Ill. Reg. 11493
Appendix D	New	24 Ill. Reg. 11493
Appendix E	New	24 Ill. Reg. 11493

10) Statement of Statewide Policy Objectives: The proposed amendments are made under the authority of Sections 5/9.9, 27, and 28.5 of the Act. The amendments are required to be adopted by the State under Sections 110(a), 172(b), 182(b)(1)(A), 182(c)(2)(A), and 182(g)(1) of the Federal Clean Air Act Amendments of 1990 (CAA), 42 U.S.C. Sections 7401(a), 7502(b), 7511a(b)(1)(A), 7511a(c)(2)(A), and 7511a(g)(1). These amendments will become part of the State Implementation Plan (SIP) to be submitted to the United States Environmental Protection Agency (USEPA) for approval as part of the attainment demonstration for the Metro-East/St. Louis ozone nonattainment area.

These proposed amendments do not create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act. 30 ILCS 805/3.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R01-16 and be addressed to:

Dorothy Gunn  
Clerk of the Pollution Control Board  
100 West Randolph Street

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Suite 11-500  
Chicago, IL 60601

Address all questions to Bobb Beauchamp, at 312-814-6926.

The Board will also accept comment at hearings scheduled for the following dates:

November 28, 2000, at 11:00 a.m.  
James R. Thompson Center  
Room 9-040  
100 West Randolph Street  
Chicago, Illinois 60601  
December 19, 2000, at 11:00 am.  
James R. Thompson Center  
Room 9-040  
100 West Randolph Street  
Chicago, Illinois 60601  
January 2, 2001, at 11:00 a.m.  
James R. Thompson Center  
Room 9-040  
100 West Randolph Street  
Chicago, Illinois 60601

\*Pursuant to section 28.5(g)(3) of the Act, the third hearing shall be cancelled if the Agency indicates to the Board that the Agency does not intend to introduce any additional material.

Request copies of the Board's opinion and order in Docket R01-16 from Patricia Jones, at 312-814-3620, or download from the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

## 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: The proposed amendments require the owner or operator to comply with the recordkeeping and reporting requirements applicable to NO(x) of 40 CFR part 75; to submit a certification statement signed by a responsible official to the Agency; to submit yearly reports to the Agency, information that must be included differs depending on whether compliance is demonstrated on a unit-by-unit basis or by averaging; and to keep for five years all records and data necessary to demonstrate compliance. The proposed amendments also provide that these shall be made available upon request to USEPA and the Agency;

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## NOTICE OF PROPOSED AMENDMENTS

and that the owner or operator shall submit copies of records and data to the Agency within 30 days after the Agency's written request.

- C) Types of professional skills necessary for compliance: No professional skills beyond those currently required by the existing state and federal air pollution control regulations applicable to affected sources will be required.

- 13) Regulatory agenda on which this rulemaking was summarized: January 2000

The full text of the Proposed Amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER C: EMISSION STANDARDS AND LIMITATIONS  
FOR STATIONARY SOURCES

## PART 217

## NITROGEN OXIDES EMISSIONS

## SUBPART A: GENERAL PROVISIONS

Section	Scope and Organization
217.100	Measurement Methods
217.101	Abbreviations and Units
217.102	Definitions
217.103	Incorporations by Reference
217.104	

## SUBPART B: NEW FUEL COMBUSTION EMISSION SOURCES

Section	New Emission Sources
217.121	

## SUBPART C: EXISTING FUEL COMBUSTION EMISSION SOURCES

Section	Existing Emission Sources in Major Metropolitan Areas
217.141	

## SUBPART K: PROCESS EMISSION SOURCES

Section	Industrial Processes
217.301	

## SUBPART O: CHEMICAL MANUFACTURE

Section	Nitric Acid Manufacturing Processes
217.381	

## SUBPART V: ELECTRIC POWER GENERATION

Section	Lake of Egypt Power Plant
217.521	Purpose
217.700	Severability
217.702	Applicability
217.704	Emission Limitations
217.706	NO(x) Averaging
217.708	Monitoring
217.710	

## POLLUTION CONTROL BOARD

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## 217.712 Reporting and Recordkeeping

- APPENDIX A Rule into Section Table  
 APPENDIX B Section into Rule Table  
 APPENDIX C Compliance Dates

AUTHORITY: Implementing Sections 10 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28-5].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 207: Nitrogen Oxides Emissions, 871-23, 4 PCB 191, April 13, 1972, filed and effective April 14, 1972; amended at 2 Ill. Reg. 17, P. 101, effective April 13, 1978; codified at 7 Ill. Reg. 13609; amended in R01-16, 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART V: ELECTRIC POWER GENERATION

## Section 217.700 Purpose

The purpose of this Subpart is to control the emissions of nitrogen oxides (NO<sub>x</sub>) from electrical generating units (EGUs) during the control period (for purposes of Subpart V, the control period is May 1 through September 30 of each year, beginning in 2003).

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 217.702 Severability

If any section, subsection or clause of this Subpart is found invalid, such finding shall not affect the validity of this Subpart as a whole or any Section, subsection or clause not found invalid.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 217.704 Applicability

The following fossil fuel-fired stationary boilers, combustion turbines or combined cycle systems are electrical generating units (EGUs) and shall be subject to this Subpart on and after May 1, 2003:

- a) Any unit serving a generator that has a nameplate capacity greater than 25 Mwe and produces electricity for sale, excluding those units listed in Appendix D of this Part and any new unit at a source listed in Appendix D of this Part.
- b) Any unit with a maximum design heat input that is greater than 250 mbtu/hr that commences operation on or after January 1, 1999, serving at any time a generator that has a nameplate capacity of 25 Mwe or

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less and has the potential to use more than 50% of the potential electrical output capacity of the unit. Fifty percent (50%) of a unit's potential electrical output capacity shall be determined by multiplying the unit's maximum design heat input by 0.0488 Mwe/mbtu. If the size of the generator is greater than this calculated number, the unit is an EGU subject to the provisions of this Subpart.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 217.706 Emission Limitations

- a) On or after May 1, 2003, no person subject to this Subpart shall cause or allow the emissions of NO<sub>x</sub> into the atmosphere from any EGU to exceed 0.25 lbs/mbtu of actual heat input during each control period, based on a control period average, for that unit.
- b) Notwithstanding the emission limitation in subsection (a) of this Section, any EGU subject to a more stringent NO<sub>x</sub> emission limitation pursuant to any State or federal statute, including the Act, the Clean Air Act, or any regulations promulgated thereunder, shall comply with both the requirements of this Subpart and that more stringent emission limitation.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

Section 217.708 NO<sub>x</sub> Averaging

- a) Notwithstanding Section 217.706(a) of this Subpart, the owners or operators of EGUs listed in Appendix F of this Part and the owner or operator of Soyland Power may elect to demonstrate compliance with this Subpart by averaging for the control period the NO<sub>x</sub> emission rates of any EGU listed in Appendix F or with any unit at Soyland Power that commenced commercial operation on or before January 1, 2000.

- b) The average NO<sub>x</sub> emission rate for all EGUs being averaged pursuant to this Section must not exceed 0.25 lb/mbtu and shall be determined as follows:

$$\text{ERavg} = \frac{\sum (\text{HI}(i) \times \text{ER}(i))}{\sum \text{HI}(i)}$$

Where:



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- BRavg. = average emission rate in lb/mbtu of all EGUs in averaging demonstration
- HI(i) = heat input for the control period of EGU i, mbtu, as specified in the NO(x) averaging demonstration
- ER(i) = actual NO(x) emission rate of EGU i, lb/mbtu, as specified in the NO (x) averaging demonstration
- n = number of EGUs that are averaging
- c) Averaging under this Subpart must be authorized through federally enforceable permit conditions for such EGU.
- d) An EGU may be included in only one NO(x) averaging demonstration during a control period.
- e) Compliance by averaging for each control period must be demonstrated by November 30 following each control period.
- f) If averaging is used to demonstrate compliance with this Subpart, the effect of a failure to demonstrate such compliance shall be that the compliance status of each EGU shall be determined pursuant to Section 217.706(a) as if the NO(x) emission rates of such EGUs were not averaged.
- (Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 217.710 Monitoring

- a) The owner or operator of an EGU subject to this Subpart shall install, calibrate, maintain and operate continuous emissions monitoring systems (CEMS) for NO(x) that meet the requirements of 40 CFR 75, subpart B.
- b) Notwithstanding subsection (a), the owner or operator of a gas-fired peaking unit or oil-fired peaking unit as defined in 40 CFR 72.2 may determine NO(x) emissions in accordance with the emissions estimation protocol of 40 CFR 75, subpart E.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 217.712 Reporting and Recordkeeping

- The owner or operator of an EGU subject to the requirements of this Subpart shall:
- a) Comply with the recordkeeping and reporting requirements of 40 CFR 75 applicable to NO(x) emissions during the control period, including,

## POLLUTION CONTROL BOARD

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- but not limited to, 40 CFR 75.54(b) and (d), incorporated by reference in Section 217.104 of this Part.
- b) Submit, with the report required under subsection (c) of this Section, the following certification statement, to be signed by a responsible official:
- "I certify under penalty of law that this report and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief after due inquiry, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- Signature \_\_\_\_\_
- Name \_\_\_\_\_
- Official Title \_\_\_\_\_
- Telephone No. \_\_\_\_\_
- Date Signed \_\_\_\_\_
- c) If demonstrating compliance through Section 217.706(a) of this Subpart, by November 30 of each year beginning in 2003, submit to the Agency a report that demonstrates each EGU has not exceeded a NO(x) emission rate of 0.25 lbs/mbtu during the control period.
- d) If demonstrating compliance through Section 217.708 of this Subpart, by November 30 of each year beginning in 2003, submit to the Agency a report that demonstrates the following:
- (1) For all EGUs participating in the averaging demonstration, the averaged control period NO(x) emission rate pursuant to the equation in Section 217.708(b) of this Subpart;
  - (2) The average control period NO(x) emission rate of each EGU participating in the averaging demonstration; and
  - (3) The information required to determine the average NO(x) emission rate pursuant to Section 217.708(b) of this Subpart.
- e) Keep and maintain, for five years, all records and data necessary to demonstrate compliance with the requirements of this Subpart, and upon request shall make such records and data available to Agency and USEPA representatives for inspection and copying during working hours; and
- f) Submit copies of all records and data required by this Section to the Agency within 30 days after receipt of a written request by the Agency.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

- 1) **Heading of the Part:** Practice in Administrative Hearings
- 2) **Code Citation:** 89 Ill. Adm. Code 104
- 3) **Section Numbers:**  
104.206  
104.207
- 4) **Statutory Authority:** Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

**Proposed Action:**  
Amendment  
Amendment

5) **Complete Description of the Subjects and Issues Involved:** Proposed amendments to the Department's medical vendor hearing rules are being made regarding instances when the recovery of money is warranted, such as reimbursement overpayments.

Currently, Section 104.206 allows the Department to recover overpayments from future payments prior to the end of a formal hearing. Any money so recovered will be repaid to the vendor if the alleged overpayment is not proven at hearing and the recovery was not warranted. However, since the total billings and overpayments, or alleged overpayments, of inpatient and residential providers tend to reflect substantial sums of money, the Department is proposing a new recovery procedure for these providers.

Under the proposed amendments, separate recovery provisions are being established for inpatient and residential facilities, such as hospitals and nursing homes, as compared to other provider types. The amendments prohibit involuntary withholding by the Department on inpatient and residential facilities during the pendency of a hearing unless it is determined that the opportunity for recovery will be jeopardized if the recovery does not occur prior to the completion of the hearing. Provisions for Department recovery under these limited circumstances are described in the proposed amendments. Section 104.206 is also being revised to not preclude any provider of inpatient or residential services from voluntarily allowing the Department to recover money concerning an overpayment, prior to the completion of a hearing.

Proposed changes are also being made to Section 104.273, Continuation of Payments During Pendency of Proceedings, to assure coordination in the Department's rules pertaining to the recovery of money. These companion amendments in Section 104.206 clarify that institutional vendors are not subject to the same policies on recovery of money as non-institutional vendors.

Since Department recovery of reimbursement overpayments will continue under these proposed amendments, no budgetary increases or decreases are expected.

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- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) **Statement of Statewide Policy Objectives:** These proposed amendments do not affect units of local government.
- 11) **Time, Place, and Manner in which Interested Persons May Comment on this Proposed Rulemaking:** Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:  
  
Joanne Jones  
Office of the General Counsel, Rules Section  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002  
217/524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) **Initial Regulatory Flexibility Analysis:**

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Institutional vendors that provide inpatient and residential services such as hospitals and long term care facilities

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B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this Rulemaking Was Summarized: July 2000

The full text of the proposed amendments begins on the next page:

## DEPARTMENT OF PUBLIC AID

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TITLE 89: SOCIAL SERVICES  
CHAPTER 1: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER a: GENERAL PROVISIONS

## PART 104

## PRACTICE IN ADMINISTRATIVE HEARINGS

## SUBPART A: ASSISTANCE APPEAL

Section  
104.1 Assistance Appeals  
104.10 Initiation of Appeal Process  
104.11 Pre-Appeal Review  
104.12 Notice of Hearing  
104.20 Conduct of Hearings  
104.21 Representation  
104.22 Appellant Participation in Hearing  
104.23 Evidentiary Requirements  
104.30 Subpoenas  
104.35 Amendment of Appeal  
104.40 Consolidation of Appeals  
104.45 Postponement or Continuation of Hearings  
104.50 Withdrawal of Appeal  
104.55 Closing of Hearing Record  
104.60 Dismissal of Appeal  
104.70 Final Administrative Decision  
104.80 Public Aid Committee

## SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Support Order, Responsible Relative and Joint Payee Petitions  
Petition for Hearing  
Conduct of Administrative Support Hearings  
Conduct of Hearings to Contest the Determination of Past-Due Support  
or of Share of Jointly-Owned Federal or State Income Tax Refunds or  
Other Joint Federal or State Payments  
Conduct of Other Hearings  
Conduct of Hearings on Petitions for Release from Administrative  
Paternity Orders  
Conduct of Hearings on Joint Owner's Contest of Levy of Jointly-Owned  
Personal Property

## SUBPART C: MEDICAL VENDOR HEARINGS

Section  
104.200 Applicability  
104.202 Definitions

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## NOTICE OF PROPOSED AMENDMENTS

- 104.204 Notice of Denial of An Application
- 104.206 Notice of Intent to Recover Money
- 104.207 Notice of Contested Paternity Hearing
- 104.208 Notice of Intent to Terminate, Suspend or Not Renew Provider Agreement
- 104.209 Notice of Intent to Certify Past-Due Support Owed by a Responsible Relative to, or Failure to Comply with a Subpoena or Warrant from, a State Licensing Agency and to Take Disciplinary Action
- 104.210 Right to Hearing
- 104.211 Notice of Termination or Suspension Pursuant to Exclusion by the Department of Health and Human Services
- 104.212 Prior Factual Determinations
- 104.213 Demand for Judicial Determination of the Existence of the Father and Child Relationship
- 104.215 Notice of Formal Conference
- 104.216 Formal Conference on Recovery of Money
- 104.217 Purpose of Formal Conference
- 104.220 Notice of Hearing
- 104.221 Issues at Hearings
- 104.225 Legal Counsel
- 104.226 Appearance of Attorney or Other Representative
- 104.230 Notice, Service and Proof of Service
- 104.231 Form of Papers
- 104.235 Discovery
- 104.240 Conduct of Hearings
- 104.241 Amendments
- 104.242 Motions
- 104.243 Subpoenas
- 104.244 Burden of Proof
- 104.245 Witness at Hearings
- 104.246 Evidence at Hearings
- 104.247 Cross-Examination
- 104.248 Disqualification of Hearing Officers
- 104.249 Genetic Testing in Contested Paternity Hearings
- 104.250 Official Notice
- 104.255 Computer Generated Documents
- 104.260 Recommendation of Peer Review Committee
- 104.270 Time Limits for Hearings
- 104.271 Continuances and Extensions
- 104.272 Withholding of Payments During Pendency of Proceedings
- 104.273 Continuation of Payments During Pendency of Proceedings
- 104.274 Denial of Payments for Services During Pendency of Proceedings
- 104.280 Record of Hearings
- 104.285 Failure to Appear or Proceed
- 104.290 Recommended Decision
- 104.295 Director's Decision

## SUBPART D: RULES FOR JOINT DEPARTMENT ACTIONS AGAINST

## DEPARTMENT OF PUBLIC AID

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## SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES PARTICIPATING IN THE MEDICAID PROGRAM

- Section Authority
- 104.300 Definitions
- 104.302 Department Actions Against Nursing Homes Facilities
- 104.304 Certification
- 104.310 Joint Administrative Hearing
- 104.320 Facilities Certified Under Both Medicare and Medicaid
- 104.330
- SUBPART E: FOOD STAMP ADMINISTRATIVE DISQUALIFICATION HEARINGS
- 104.400 Suspected Intentional Violation of the Program
- 104.410 Advance Notice of Administrative Disqualification Hearing
- 104.420 Postponement of Hearing
- 104.430 Administrative Disqualification Hearing Procedures
- 104.440 Failure to Appear
- 104.450 Participation While Awaiting a Hearing
- 104.460 Consolidation of Administrative Disqualification Hearing with Fair Hearing
- 104.470 Administrative Disqualification Hearing Decision and Notice of Decision
- 104.480 Appeal Procedure

## SUBPART F: INCORPORATION BY REFERENCE

- Section Incorporation by Reference
- 104.800

AUTHORITY: Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ICs 5/11-8 through 11-8.7, 12-4.9, 12-4.25 and 12-13].

SOURCE: Filed and effective December 30, 1977; emergency rule at 2 Ill. Reg. 11, p. 151, effective March 9, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 10, effective May 26, 1978; amended at 2 Ill. Reg. 33, p. 57, effective August 17, 1978; peremptory amendment at 3 Ill. Reg. 11, p. 38, effective March 1, 1979; amended at 4 Ill. Reg. 21, p. 80, effective May 8, 1980; peremptory amendment at 5 Ill. Reg. 1197, effective January 23, 1981; amended at 5 Ill. Reg. 10753, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 8 Ill. Reg. 5274, effective April 9, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 16979; amended at 8 Ill. Reg. 18114, effective September 21, 1984; amended at 10 Ill. Reg. 10129, effective June 1, 1986; amended at 11 Ill. Reg. 9213, effective April 30, 1987; amended at 12 Ill. Reg. 9142, effective May 16, 1986; amended at 13 Ill. Reg. 2944, effective March 10, 1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989;



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amended at 14 Ill. Reg. 18836, effective November 9, 1990; amended at 15 Ill. Reg. 5320, effective April 1, 1991; amended at 15 Ill. Reg. 6557, effective April 30, 1991; amended at 16 Ill. Reg. 12903, effective August 15, 1992; amended at 16 Ill. Reg. 16632, effective October 23, 1992; amended at 16 Ill. Reg. 18834, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 659, effective January 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 7025, effective April 30, 1993; amended at 18 Ill. Reg. 11260, effective July 1, 1994; amended at 19 Ill. Reg. 1321, effective January 30, 1995; emergency amendment at 19 Ill. Reg. 10268, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15521, effective October 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15711, effective November 6, 1995; amended at 20 Ill. Reg. 1229, effective December 29, 1995; amended at 20 Ill. Reg. 5699, effective March 28, 1996; amended at 20 Ill. Reg. 14894, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 8671, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9306, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13648, effective October 1, 1997; amended at 21 Ill. Reg. 14977, effective November 7, 1997; emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2393, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11734, effective September 1, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 2418, effective January 27, 2000; amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART C: MEDICAL VENDOR HEARINGS

## Section 104.206 Notice of Intent to Recover Money

## a) Institutional Vendors

1) For purposes of this Section, institutional vendors means providers enrolled in the Medical Assistance Program to provide inpatient or residential services, such as hospitals and long term care facilities.

2) The ~~if~~ the Department shall notify the institutional vendor in writing of an intent ~~intends~~ to recover money ~~it shall notify the vendor in writing~~, setting forth:

A) the reason for the Department's action,

B) a statement of the right to request a hearing,

C) a statement of the time, place and nature of the hearing, and

D) a statement of the legal authority and jurisdiction under which the hearing is to be held, and

E) a reference to the Sections ~~sections~~ of the statutes and rules involved.<sup>7</sup>

3) For institutional vendors, the Department will not recover money prior to the issuance of a final administrative decision, unless the Department determines that the recovery of money would be in jeopardy, if the recovery does not occur prior to the completion of the hearing due to events such as, but not limited to, pending

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decertification of the provider or the filing of a False Claims Act action against the provider. In such circumstances, the Department may recover the money prior to the completion of the hearing, and the notice shall set forth:

A) the date after which the Department will start to recover money by deducting from Department obligations to the vendor,

B) a statement that the Department will recover the money in this manner prior to the completion of any hearing requested,

C) a statement that any money so recovered will be repaid to the vendor if it is determined at hearing that the recovery was not warranted, and

D) a statement that the vendor has the opportunity to respond prior to the date the Department will start to recover money during the pendency of the hearing and a statement of how and to whom such a response should be made.

4) Nothing in this subsection (a), except as provided in subsection (a)(3), shall preclude a vendor who is enrolled to provide inpatient or residential services from voluntarily having the Department recover money by deducting from Department obligations to the vendor all or part of the claimed overpayment prior to the completion of any hearing.

f) a statement that the vendor has the opportunity to respond prior to the recovery and a statement of how and to whom such a response should be made; and

g) the date after which the Department will start to recover money by deducting from Department obligations to the vendor and a statement that the Department will recover the money in this manner prior to the completion of any hearing requested and that any money so recovered will be repaid to the vendor if it is not determined at hearing that the recovery was warranted;

## b) Non-Institutional Vendors

1) For purposes of this Section, non-institutional vendors means providers enrolled in the Medical Assistance Program that do not provide inpatient or residential services.

2) The Department shall notify the non-institutional vendor in writing of an intent to recover money setting forth:

A) the requirements described in subsections (a)(2)(A) through (E) of this Section,

B) the date after which the Department will start to recover money by deducting from Department obligations to the vendor,

C) a statement that the Department will recover the money in this manner prior to the completion of any hearing requested,

D) a statement that any money so recovered will be repaid to the vendor if it is determined at hearing that the recovery

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was not warranted, and  
 E) a statement that the vendor has the opportunity to respond prior to the date the Department will start to recover money during the pendency of the hearing and a statement of how and to whom such a response should be made.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 104.273 Continuation of Payments During Pendency of Proceedings

The Department will continue to make payments during the pendency of an administrative proceeding when federal or State law or regulation does not require such payments to be withheld, and in the following circumstances:

- a) If the vendor is a nursing home (not an ICF/MR facility), the Department will continue to make payments up to the termination date established by the Department for services rendered, to persons continuously eligible for and receiving Medical Assistance and residing in the home on the date of the Department's notice initiating the administrative proceeding; or
- b) If the vendor is an ICF/MR facility, the Department will continue to make payments for services rendered to persons continuously eligible for and receiving Medical Assistance and residing in the home on the date of the Department's notice initiating the administrative proceeding; or
- c) If the vendor is a hospital and the Department's notice:
  - 1) is a result of Medicare action, the Department will continue to make payments for services rendered to persons who are eligible for and receiving Medical Assistance on the date of service of the Department's notice, up to the date the vendor's participation is terminated; or
  - 2) is for Medicaid only action, the Department may withhold payments pursuant to Section 104.272; or
- d) If the administrative proceeding only relates to recovery of money (and not termination), the Department will continue to process invoices for services rendered by the vendor. For vendors other than institutional vendors, the payments shall be subject to setoff for recovery of the amount sought in the proceeding; or
- e) If the administrative proceeding only relates to suspension and not termination of eligibility, the Department will continue to make payments for services rendered by the vendor.

(Source: Amended at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Income Tax
  - 2) Code Citation: 86 Ill. Adm. Code 100
  - 3) Section Numbers: Proposed Action:  
100.5040 New Section
  - 4) Statutory Authority: 35 ILCS 5/502(c)(4)
  - 5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements Section 502(c)(4) of the Illinois Income Tax Act (35 ILCS 5/502(c)(4)) created in Public Act 91-541. Section 502(c)(4) provides for innocent spouse relief for tax liabilities upon proper election and demonstration of innocent spouse status.
  - 6) Will this proposed amendment replace an emergency rule currently in effect? No
  - 7) Does this rulemaking contain an automatic repeal date? No
  - 8) Does this proposed amendment contain incorporations by reference? No
  - 9) Are there any other proposed amendments pending on this Part? Yes
- | Section Numbers | Proposed Action | IL Register Citation         |
|-----------------|-----------------|------------------------------|
| 100.5130        | Amendment       | 07/28/00, 24 Ill. Reg. 11188 |
| 100.2470        | Amendment       | 08/04/00, 24 Ill. Reg. 11582 |
| 100.2330        | Amendment       | 08/11/00, 24 Ill. Reg. 11778 |
| 100.9530        | New Section     | 08/18/00, 24 Ill. Reg. 12445 |
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Heidi Scott  
 Associate Counsel  
 Illinois Department of Revenue  
 Legal Services Office  
 101 West Jefferson  
 Springfield, Illinois 62794  
 (217) 782-6996

12) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE  
NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE

PART 100  
INCOME TAX

SUBPART A: TAX IMPOSED

Section  
100.2000 Introduction  
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section  
100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))  
100.2101 Replacement Tax Investment Credit (IITA 201(e))  
100.2110 Investment Credit; Enterprise Zone (IITA 201(f))  
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))  
100.2130 Investment Credit; High Impact Business (IITA 201(h))  
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))  
100.2150 Training Expense Credit (IITA 201(j))  
100.2160 Research and Development Credit (IITA 201(k))  
100.2165 Education Expense Credit (IITA 201(m))  
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)  
100.2180 Credit for Residential Real Property Taxes (IITA 208)  
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS  
OCCURRING PRIOR TO DECEMBER 31, 1986

Section  
100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Scope  
100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Definitions  
100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Current Net Operating Losses; Offsets Between Members  
100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Carrybacks and Carryforwards

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100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income

100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER  
DECEMBER 31, 1986

Section  
100.2300 Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986

100.2310 Computation of the Illinois Net Loss Deduction

100.2320 Determination of the Amount of Illinois Net Loss Carryovers

100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring on or After December 31, 1986

100.2340 Illinois Net Loss Deductions of Corporations That are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns

100.2350 Illinois Net Loss Deductions of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS,  
CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section  
100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))

100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))

## SUBPART F: BASE INCOME OF INDIVIDUALS

Section  
100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))

100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

## SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section

## DEPARTMENT OF REVENUE

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100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF  
BASE INCOME

Section  
100.3000 Terms Used in Article 3 (IITA Section 301)

100.3010 Business and Nonbusiness Income (IITA Section 301)

100.3020 Resident (IITA Section 301)

## SUBPART J: COMPENSATION PAID TO NONRESIDENTS

Section  
100.3100 Compensation (IITA Section 302)

100.3110 State (IITA Section 302)

100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

## SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section  
100.3200 Taxability in Other State (IITA Section 303)

100.3210 Commercial Domicile (IITA Section 303)

100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other than Residents (IITA Section 303)

## SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section  
100.3300 Allocation and Apportionment of Base Income (IITA Section 304)

100.3310 Business Income of Persons Other than Residents (IITA Section 304) - In General

100.3320 Business Income of Persons Other than Residents (IITA Section 304) - Apportionment

100.3330 Business Income of Persons Other than Residents (IITA Section 304) - Allocation

100.3340 Business Income of Persons Other than Residents (IITA Section 304)

100.3350 Property Factor (IITA Section 304)

100.3360 Payroll Factor (IITA Section 304)

100.3370 Sales Factor (IITA Section 304)

100.3380 Special Rules (IITA Section 304)

100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))

## SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section  
100.5000 Time for Filing Returns: Individuals (IITA Section 505)



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Place for Filing Returns: All Taxpayers (IITA Section 505)  
 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)  
 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)  
 Innocent Spouses

## SUBPART O: COMPOSITE RETURNS

Composite Returns: Eligibility  
 Composite Returns: Responsibilities of Authorized Agent  
 Composite Returns: Individual Liability  
 Composite Returns: Required forms and computation of Income  
 Composite Returns: Estimated Payments  
 Composite Returns: Tax, Penalties and Interest  
 Composite Returns: Credit for Resident Individuals  
 Composite Returns: Definition of a "Lloyd's Plan of Operation"

## SUBPART P: COMBINED RETURNS

Filing of Combined Returns  
 Definitions and Miscellaneous Provisions Relating to Combined Returns

Election to File a Combined Return  
 Procedures for Elective and Mandatory Filing of Combined Returns  
 Designated Agent for the Members  
 Combined Estimated Tax Payments  
 Claims for Credit of Overpayments  
 Liability for Combined Tax, Penalty and Interest  
 Combined Amended Returns  
 Common Taxable Year  
 Computation of Combined Net Income and Tax  
 Combined Return Issues Related to Audits

## SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Requirement of Withholding (IITA Section 701)  
 Compensation Paid in this State (IITA Section 701)  
 Transacting Business Within this State (IITA Section 701)  
 Payments to Residents (IITA Section 701)  
 Employer Registration (IITA Section 701)  
 Computation of Amount Withheld (IITA Section 701)  
 Additional Withholding (IITA Section 701)  
 Voluntary Withholding (IITA Section 701)

Section  
 100.7000  
 100.7010  
 100.7020  
 100.7030  
 100.7040  
 100.7050  
 100.7060  
 100.7070

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

Correction of Under withholding or Overwithholding (IITA Section 701)  
 Reciprocal Agreement (IITA Section 701)  
 Cross References

## SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section  
 100.7100  
 100.7110  
 100.7120

Withholding Exemption (IITA Section 702)  
 Withholding Exemption Certificate (IITA Section 702)  
 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

## SUBPART S: INFORMATION STATEMENT

Section  
 100.7200

Reports for Employee (IITA Section 703)

## SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section  
 100.7300  
 100.7310  
 100.7320  
 100.7330  
 100.7340

Returns of Income Withheld from Wages (IITA Section 704)  
 Quarterly Returns Filed on an Annual Basis (IITA Section 704)  
 Time for Filing Returns (IITA Section 704)  
 Payment of Tax Deducted and Withheld (IITA Section 704)  
 Correction of Under withholding or Overwithholding (IITA Section 704)

## SUBPART U: COLLECTION AUTHORITY

Section  
 100.9000  
 100.9010  
 100.9020

General Income Tax Procedures (IITA Section 901)  
 Collection Authority (IITA Section 901)  
 Child Support Collection (IITA Section 901)

## SUBPART V: NOTICE AND DEMAND

Section  
 100.9100

Notice and Demand (IITA Section 902)

## SUBPART W: ASSESSMENT

Section  
 100.9200  
 100.9210

Assessment (IITA Section 903)  
 Waiver of Restrictions on Assessments (IITA Section 907)

## SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section

## DEPARTMENT OF REVENUE

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

## NOTICE OF PROPOSED AMENDMENTS

00-9300 Deficiencies and Overpayments (IITA Section 904)  
 00-9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)  
 00-9320 Limitations on Notices of Deficiency (IITA Section 905)  
 00-9330 Further Notices of Deficiency Restricted (IITA Section 906)

## SUBPART 7: CREDITS AND REFUNDS

00-9340 Credits and Refunds (IITA Section 909)  
 00-9350 Limitations on Claims for Refund (IITA Section 911)  
 00-9360 Recovery of Erroneous Refund (IITA Section 912)

## SUBPART 8: INVESTIGATIONS AND HEARINGS

00-9370 Access to Books and Records (IITA Section 913)  
 00-9380 Access to Books and Records -- 60-Day Letters (IITA Section 913) (Repealed)  
 00-9510 Taxpayer Representation and Practice Requirements  
 00-9520 Conduct of Investigations and Hearings

## SUBPART 9A: JUDICIAL REVIEW

Section  
 100-9600 Administrative Review Law (IITA Section 1201)

## SUBPART 9B: DEFINITIONS

Section  
 100-9700 Unitary Business Group Defined (IITA Section 1501)

## SUBPART 9C: LETTER RULING PROCEDURES

Section  
 100-9800 Letter Ruling Procedures

APPENDIX A Business Income of Persons Other Than Residents  
 TABLE A Example of Unitary Business Apportionment  
 TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended

at 5 Ill. Reg. 4642, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 23, 1988; amended at 13 Ill. Reg. 8317, effective May 30, 1989; amended at 13 Ill. Reg. 10352, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 22, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; amended at 25 Ill. Reg. \_\_\_\_\_, effective

SUBPART N: TIME AND PLACE FOR FILING RETURNS

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- a) Spouses who file a joint return for a taxable year are each liable for the entire tax liability of the couple, regardless of which spouse earned the income reportable on the return. (See IITA Section 502(c).) However, spouses may be entitled to relief from some or all of a joint return liability under the Innocent Spouse provision in IITA Section 502(c)(4). An election under this Section to obtain such relief applies to every year for which a joint return was filed involving the same two individuals listed in the election.
- b) For tax liabilities arising and paid prior to August 13, 1999, a spouse shall, with respect to any taxable year to which the election applies, be relieved from liability for any Illinois tax, penalties, additions to tax, interest, or other amounts, to the same extent as the relief provided by the Internal Revenue Service under a Section 6013(e) determination. If there is no federal income tax liability at issue, a spouse shall be relieved from liability for any Illinois tax, penalties, additions to tax, interest, or other amounts, if:
- 1) a joint return was filed for such taxable year;
  - 2) the amount of understatement of tax exceeds \$500 and is attributable to an omission by such person's spouse;
  - 3) the spouse did not know of, and had no reason to know of, such omission at the time of signing the return; and
  - 4) it is unfair to hold the spouse liable for the deficiency in tax for such omission.
- c) For tax liabilities arising after August 13, 1999, or which arose prior to but remain unpaid as of August 13, 1999, any individual who makes an election under this Section shall be liable only for the amount of Illinois income tax that does not exceed the individual's separate return amount for that taxable year and the individual's liability for any deficiency assessed for that taxable year shall not exceed the portion of the deficiency properly allocable to the individual. (IITA Section 502(c)(4)(B))
- d) Making the Election. There are two ways that an individual may elect the protection of the innocent spouse provision according to IITA Section 502(c)(4):
- 1) An individual who submits proof of an election made pursuant to Section 6015 of the Internal Revenue Code (by sending a copy of Form 8857 to the Department) automatically elects the innocent spouse provision (i.e., IITA 502(c)(4)). Any determination made under Section 6015 with respect to the validity of the innocent spouse election and/or the individual's separate return amount or portion of any deficiency attributable to the individual is conclusively presumed to be correct.
  - 2) If no election has been made under Internal Revenue Code Section 6015, an innocent spouse must file Form IL-8857 and meet the following conditions:
    - a) the joint return filed for the taxable year has an understatement of tax due to erroneous items of the spouse not seeking relief under this Section; and

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- b) the spouse seeking relief under this Section had no actual knowledge of, and had no reason to know of, such understatement of tax at the time of signing the joint return; and
- c) no assets have been transferred between the spouses as part of a scheme by such individuals to avoid payment of Illinois income tax.
- e) Limitations on the Innocent Spouses Election. There is no limitations period for making an innocent spouse election. However, any claim for refund of taxes paid by a spouse making the election must be filed within the applicable period for filing a claim for refund of income taxes.
- f) Burden of Proof. The individual seeking relief has the burden of proof with respect to all matters, except that the Department has the burden of proof with respect to disputes regarding a spouse's knowledge of an erroneous item under subsection (d)(2)(B) of this Section or the existence of a scheme to avoid payment of tax under subsection (d)(2)(C) of this Section.
- g) Collection Action. Receipt by the Department of proof of an election under the Internal Revenue Code Section 6015 or the filing of Form IL-8857 will only terminate Department collection activity against the spouse seeking relief; assessments will continue against both spouses. Collection activity will cease until a notice is sent to the electing spouse:
- 1) stating that the election is invalid; or
  - 2) identifying the portion of tax liability that has been allocated to the electing spouse.
- h) Written Protests. An electing spouse who receives a notice stating that the election is invalid or that the relief granted is less than the relief the electing spouse believes is warranted may file a written protest to the notice within 60 days (or 150 days if outside the United States) from the date of the notice. If a written protest is filed, the electing spouse will be granted a hearing according to IITA Section 908. Further administrative review shall be allowed in accordance with IITA Section 1201. Once the Department is in receipt of a written protest that is properly filed, no collection action shall be taken by the Department until the decision regarding the protest becomes final under Section 908(d), or if administrative review of the Department's decision is requested under Section 1201, until the decision of the court becomes final. Assessment is not affected by the filing of a written protest.
- i) Claims in Addition to the Innocent Spouse Provision. Alternative grounds for the individual's claim of reduced liability or no liability shall be consolidated, if possible, with the election of the innocent spouse provision and any outstanding Notice of Deficiencies in order to enhance administrative efficiency.
- j) "Separate return amount" means an amount equal to the excess (if

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

any) of:

- A) the tax liability of the individual based on the items shown on the joint return for the taxable year if the individual had filed a separate return, over
- B) the aggregate payments of such tax properly allocable to such individual. In determining the tax liability that the individual would have incurred had he or she filed a separate return, any item of income, deduction, exemption credit, or payment that is not clearly allocable to either spouse shall be divided equally between the spouses. For example, interest earned on a joint bank account, the exemptions allowed for dependent children, the credit for property taxes paid with respect to the spouses' principal residence, and any payment of estimated tax made from a joint bank account will be divided equally between the spouses. In the absence of evidence that such amounts should be allocated in a different manner.
- 2) For purposes of this Section, "deficiency" means the difference between the total amount of tax that should have been shown on the return and the amount of tax that was actually shown on the return. The portion of a deficiency properly allocable to an individual will be determined by allocating the erroneous items of income, deduction or credit whose correction generates the deficiency between the spouses in the same manner as would be used to allocate such items between the spouses for purposes of determining the separate return amounts for the spouses.
- 3) "Erroneous items" means any unreported income, incorrect deductions, or incorrect credits shown on a return.

(Source: Added at 25 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Inspection Procedures for Type I School Buses
- 2) Code Citation: 92 Ill. Adm. Code 441
- 3) Section Numbers: Amend  
Appendix B  
Appendix H
- 4) Statutory Authority: Implementing and authorized by Article VIII of the Illinois Vehicle Equipment Law [625 ILCS 5/Ch. 12, Art. VIII] and the Illinois Vehicle Inspection Law [625 ILCS 5/Ch. 13].
- 5) A complete description of the subjects and issues involved: These proposed amendments are identical to the text of the emergency amendments to Part 441 found elsewhere in this issue of the Illinois Register. Please see the complete description of subjects and issues involved and the reason for the emergency on the Notice of Emergency Amendments for an explanation of the proposed amendments. These proposed amendments will replace the emergency amendments after the expiration of the 150-day period.
- 6) Will this proposed rulemaking replace an emergency rulemaking currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will affect units of local government that may own or operate school buses.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212  
217/785-1181

By Messenger or Inter-Agency Mail:



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENTS

DOT Annex Building  
3215 Executive Park Drive  
Commercial Vehicle Safety, 3rd Floor  
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 311  
Springfield, Illinois 62764  
217/782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

## 12) Initial Regulatory Flexibility Analysis:

A) pes of small businesses affected: Small businesses that own or operate school buses will be affected by this rulemaking.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the Department did not anticipate the problem until industry brought the request for relief.

The full text of the Proposed Amendments is identical to the text of the emergency amendments that appears in this issue of the *Illinois Register* on page \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Minimum Safety Standards for Construction of Type I School Buses

2) Code Citation: 92 Ill. Adm. Code 440

3) Section Numbers: 440-520  
Proposed Action: Amend

4) Statutory Authority: Implementing Article VIII of Chapter 12 and authorized by Section 12-812 of the Illinois Vehicle Code [625 ILCS 5/Ch. 12, Art. VIII].

5) A complete description of the subjects and issues involved: This proposed amendment is identical to the text of the emergency amendment to Part 440 found elsewhere in this issue of the *Illinois Register*. Please see the complete description of subjects and issues involved and the reason for the emergency on the Notice of Emergency Amendment for an explanation of this proposed amendment. This proposed amendment will replace the emergency amendment after the expiration of the 150-day period.

6) Will this proposed rulemaking replace an emergency rulemaking currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will affect units of local government that may own or operate school buses.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212  
(217) 785-1181

By Messenger or Inter-Agency Mail:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED AMENDMENTS

DOT Annex Building  
3215 Executive Park Drive  
Commercial Vehicle Safety, 3rd Floor  
Springfield, Illinois

JCAR requests, comments and concerns regarding  
this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 311  
Springfield, Illinois 62764  
(217) 782-3215

Comments received within 45 days after the date of publication of this  
*Illinois Register* will be considered. Comments received after that time  
will be considered, time permitting.

## 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: Small businesses that own or  
operate school buses will be affected by this rulemaking.
- B) Reporting, bookkeeping or other procedures required for compliance:  
None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This  
rulemaking was not included on either of the two most recent most agendas  
because: the Department did not anticipate the problem until industry  
brought the request for relief.

The full text of the Proposed Amendment is identical to the text of the  
emergency amendment that appears in this issue of the *Illinois Register* on page

4334.

## OFFICE OF THE COMPTROLLER

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Public Radio and Television Station Grants

- 2) Code Citation: 74 Ill. Adm. Code 280

- 3) Section Numbers: Adopted Action:

280.5 Repealed  
280.10 Repealed  
280.15 Repealed  
280.20 Repealed  
280.25 Repealed  
280.30 Repealed  
280.35 Repealed  
APPENDIX A Repealed  
APPENDIX B Repealed

- 4) Statutory Authority: Public Radio and Television Grant Act (30 ILCS 745)

- 5) Effective Date of Repeal: October 23, 2000

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference? No

- 8) A copy of the adopted repealer, including any material incorporated by  
reference, is on file in the agency's principal office and is available for  
public inspection.

- 9) Notice of Proposal Published in *Illinois Register*: June 30, 2000; 27 Ill.  
Reg. 8703

- 10) Has JCAR issued a Statement of Objections to these repealers? No

- 11) Difference(s) between proposal and final version: None

- 12) Have all the changes agreed upon by the agency and JCAR been made as  
indicated in the agreements issued by JCAR? Yes

- 13) Will this rulemaking replace an emergency rulemaking currently in effect?  
No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Rulemaking: This rulemaking repeals a Part made  
obsolete by the enactment of P.A. 91-0025 which shifts administration of  
the grant program from the Illinois Office of the Comptroller to the  
Illinois Arts Council.

- 16) Information and questions regarding these adopted repealers shall be

## OFFICE OF THE COMPTROLLER

## NOTICE OF ADOPTED REPEALER

## directed to:

Whitney Wager Rosen, Legislative Counsel  
Office of the Comptroller  
201 State Capitol  
Springfield, Illinois 62706  
721/782-0905

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

## directed to:

1) Heading of the Part: Procedures and Requirements for Determining Loan Priorities of Projects in the Public Water Supply Loan Program

2) Code Citation: 35 Ill. Adm. Code Part 663

3) Section Numbers:      Adopted Action:  
663.120                    Amendment  
663.140                    Amendment  
663.150                    Amendment  
663.220                    Amendment  
663.230                    Amendment  
663.250                    Amendment  
663.260                    Amendment  
663.270                    Amendment

4) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.9 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.9]

5) Effective Date of Rulemaking: November 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in the Illinois Register: April 14, 2000, 24 Ill. Reg. 6176

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version:

1. Several technical, grammatical, or typographic changes were made in the text.

2. In Section 663.220, "may" was changed and restored to "shall".

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this proposed rulemaking replace an emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: These amendments establish the requirements for ranking and setting priorities for issuing low interest rate loans to certain categories of privately owned community water supplies. The categories of privately owned community water supplies that can seek low interest loans are investor-owned water utilities regulated by the Illinois Commerce Commission, not-for-profit water corporations and mutually owned or cooperatively owned community water supplies.

- 16) Requests for information and questions regarding this adopted rulemaking may be directed to:

Ronald Drainer, Manager  
Infrastructure Financial Assistance Section  
Bureau of Water  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East, P.O. Box 19276  
Springfield, IL 62794-9276  
(217) 782-2027

The full text of the adopted amendments begins on the next page:

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE F: PUBLIC WATER SUPPLIES  
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

## PART 663

PROCEDURES AND REQUIREMENTS FOR DETERMINING LOAN  
PRIORITIES OF PROJECTS IN THE PUBLIC WATER SUPPLY LOAN PROGRAM

## SUBPART A: INTRODUCTION

Section  
663.110 Purpose  
663.120 Definitions  
663.130 Incorporation by Reference  
663.140 Priority System and Project Priority List  
663.150 Pre-applications  
663.160 Project Planning

## SUBPART B: PROCEDURE FOR CALCULATING THE LOAN PRIORITY INDEX

Section  
663.210 Formula for Computing the Loan Priority Index  
663.220 A1 Factor (Population)  
663.230 A2 Factor (Project Need)  
663.240 A3 Factor (Financial Hardship)  
663.250 A4 Factor (Source Water Protection)  
663.260 A5 (Small Community Public Water Systems)  
663.270 Scoring Conventions  
APPENDIX A Service Continuation Scoring Sheet

AUTHORITY: Implementing and authorized by Sections 19.1 through 19.9 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.9].

SOURCE: Emergency rule adopted at 21 Ill. Reg. 10081, effective July 17, 1997, for a maximum of 150 days; emergency expired on December 13, 1997; adopted at 22 Ill. Reg. 3764, effective February 10, 1998; amended at 24 Ill. Reg. 16236, effective 3/1/00.

## SUBPART A: INTRODUCTION

## Section 663.120 Definitions

- a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act (415 ILCS 5), the Federal Safe Drinking Water Act (42 USC 436f-300f) and regulations adopted under these Acts, including 35 Ill. Adm. Code: Subtitle F, Part 662.
- b) For purposes of this Part, the following definitions apply:



## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

"Acute Violation" -- Exceedance of a maximum contaminant level (MCL) or treatment technique requirement for a contaminant that would cause an acute health effect with a sudden onset, sharp rise and short course of illness as provided in the National Primary Drinking Water Rules (40 CFR 141.32).

"Agency" -- Illinois Environmental Protection Agency.

"Chronic Violation" -- Exceedance of an MCL or treatment technique requirement for a contaminant that would cause a health effect of a chronic nature requiring a long exposure to the contaminant before effects occur, as provided in National Primary Drinking Water Regulations (40 CFR 141.32).

"Fund" -- The Water Revolving Fund authorized by 415 ILCS 5/19.3, consisting of the Water Pollution Control Loan Program, the Public Water Supply Loan Program and the Loan Support Program.

"Health Hazard Determination" -- A Health Hazard Determination exists when concentrations of regulated contaminants, in a water supply, or concentrations of contaminants not otherwise regulated, exceed health effects standards published in U.S. Environmental Protection Agency (USEPA) Health Advisories, or by the Illinois Department of Public Health or by the U-S-C Centers for Disease Control and Prevention or which otherwise pose an immediate threat to public health.

"Intended Use Plan" -- A plan which includes a description of the short and long term goals and objectives of the PWSLP, project categories, terms of financial assistance, communities and populations benefited. (415 ILCS 5/19.2(e))

"Local Government Unit" -- A county, municipality, township, municipal or county sewerage or utility authority, sanitary district, public water district, improvement authority or any other political subdivision whose primary purpose is to construct, operate and maintain wastewater treatment facilities or public water supply facilities or both. (415 ILCS 5/19.4(f))

"Maximum Contaminant Level" (MCL) -- The maximum permissible level of a contaminant in water that is delivered to any user of a public water system.

"Monthly Operating Reports" -- Reports submitted monthly by public water supplies that report on the operation of the water supply, including water pumpage, chemical additions, chemical residuals and maintenance.

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

"PWSLP" -- The Public Water Supply Loan Program as authorized by 415 ILCS 5/19.1 through 19.3.

"Priority System" -- A methodology used to rank projects for inclusion on the Project Priority List.

"Project Priority List" -- An ordered listing of projects developed in accordance with this Part 663 which the Agency has determined are eligible to receive financial assistance from the PWSLP.

"SDWA" -- The federal Safe Drinking Water Act, 42 USC 8-S-6-300f.

"Treatment Technique Requirement" -- An enforceable procedure developed by USEPA when it is not economically or technologically feasible to ascertain the level of a contaminant. Public water supplies must follow this procedure and treat their drinking water supplies according to USEPA specifications to ensure the contaminant is controlled.

"Wellhead Protection Program" -- The wellhead protection program for the State of Illinois, approved by the USEPA under Section 1428 of the federal SDWA (42 USC 8-S-6-300h-7).

(Source: Amended at 24 Ill. Reg. 16236, effective 1/1/79)

## Section 663.140 Priority System and Project Priority List

- a) Financial assistance will be provided from the PWSLP only to projects which are identified on the Project Priority List.
- b) Projects will be ranked for inclusion on the Project Priority List using the methodology set out in Subpart B of this Part.
- c) The Agency will provide the list to individual members of the public upon request. All public comments received will be taken into account in establishing the Project Priority List.
- d) A project with approved project planning may be added to the Project Priority List at any time by the submission of a pre-application form.

(Source: Amended at 24 Ill. Reg. 16236, effective 1/1/79)

## Section 663.150 Pre-applications

- a) A potential applicant local government unit may submit a pre-application form in accordance with 35 Ill. Adm. Code 662.420, at any time. Copies of the pre-application form and instructions can be

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obtained from the Illinois Environmental Protection Agency, Infrastructure Financial Assistance Section, 1021 North Grand Avenue East, Post Office Box 19276, Springfield, Illinois 62794-9276. The pre-application must provide the reason for the project, the scope of the project, the population to be served by the project, a cost estimate, and a schedule for completion of the project.

- b) An applicant is required to renew its pre-application form annually.  
 c) Pre-application forms applications must be received by March 31 of the preceding fiscal year to be included on the Project Priority List and on the Intended Use Plan.

(Source: Amended at 24 Ill. Reg. 113.06, effective NOV 1 1991)

## SUBPART B: PROCEDURE FOR CALCULATING THE LOAN PRIORITY INDEX

## Section 663.220 A1 Factor (Population)

A1 is a factor which evaluates the existing population that is served by the proposed project. A1 is calculated as log base 10 of the number of persons served by the project, with a maximum value of 5.30 points. The applicant shall provide the population served figure, which the Agency will be verified during the Project Planning Process verify from its records.

(Source: Amended at 24 Ill. Reg. 113.06, effective NOV 1 1991)

## Section 663.230 A2 Factor (Project Need)

A2 is a factor that evaluates and quantifies eligible drinking water needs associated with a proposed project. The need for the proposed projects will be quantified by using the most appropriate of the following methodologies:

- a) For projects that meet the Health Hazard Determination criteria set out in Section 663.120, the A2 score will be 100 points.
- b) For projects that will correct violations of the Safe Drinking Water Act determined through compliance monitoring, points will be awarded based on the seriousness of the violations that make the project necessary. The violations will be quantified from the applicant's Monthly Operating Reports. The values for the violations are as follows:

- 1) Acute Violation 75 points;
  - 2) Chronic Violation 50 points.
- For projects that will prevent future acute or chronic violations and address a need that has been demonstrated by compliance monitoring, Section 663.270 allows for assigning a portion of the acute and chronic violation points for priority scoring purposes.
- c) For projects that will correct violations of the State's protection of public health rules regarding adequate pressure, transmission, and

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storage of drinking water, as contained in 35 Ill. Adm. Code 653 and as determined by the Agency's Field Operations Section, evidenced by an Agency-issued notice of violation, the initial A2 value will be 20 points. This value will be augmented by the points assigned from the Service Continuation Scoring Sheet (Appendix A) based on information contained in the approved project planning report and Agency inspection.

- d) Projects that will extend or provide community drinking water to an area currently served by private wells will receive a score of 15 points, plus a need factor which will be quantified from the percentage of private wells found to be out of compliance with regulations or advisories administered by the Illinois Department of Public Health and which pose a potential threat to public health based on sampling or inspection as determined by the health authority responsible for the area to be served. The percentage of wells, expressed as a decimal, that are unsatisfactory will be multiplied by 10 and the result added to the 15 points to complete the A2 score.
- e) Renovation, repair, reconstruction or replacement of facilities to maintain the safe and adequate water supply capabilities for which they were designed and to enable their continued service will be scored by completion of the Service Continuation Scoring Sheet (Appendix A). The assigned values which will be based on information contained in the approved project planning report and Agency inspection will be used as the A2 factor in the LPI calculation up to a maximum of 20 points.

(Source: Amended at 24 Ill. Reg. 113.06, effective NOV 1 1991)

## Section 663.250 A4 Factor (Source Water Protection)

A4 is a factor that adds points for applicants that have taken specific steps to protect their source water or have incorporated water conservation measures in their approved project planning report. These points will be awarded by the Agency for the program elements as follows:

- a) Community Water Supplies Communities that have incorporated water conservation measures as a cost-effective alternative to additional capacity. 1.0 point
- b) Community Water Supplies Communities that have committed to the Agency to develop source water protection programs through one of the following mechanisms: 0.5 point
  - 1) Consent decree or compliance initiative agreement;

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- 2) Federal Safe Drinking Water Act Monitoring Waiver Program as described in 35 Ill. Adm. Code 611.110(e); or
- 3) Written commitment to pursue wellhead protection program.

c) Community Water Supplies Communities that have delineated their source water protection areas by one of the following mapping techniques: 0.5 point

- 1) For surface water sources: An Agency approved delineation of the watershed boundary;
- 2) For groundwater sources: An Agency approved delineation of the recharge area.

d) An Agency approved inventory of potential point sources of contamination. 0.5 point

e) For completion of a contingency plan as described in Sections 1413(a)(5) and 1428(a)(5) of the Federal Safe Drinking Water Act (42 USC 6856r 300g and 300h-7). 0.5 point

f) For development of a Management Program for source water protection as described in the State Source Water Assessment and Protection Guidance prepared by USEPA pursuant to Section 1453 of the Federal Safe Drinking Water Act (42 USC 6856r 300j-13). 1.0 point

(Source: Amended at 24 Ill. Reg. 13236, effective NOV 11 2000)

## Section 663.260 A5 Factor (Small Community public Water Systems)

A5 is a factor that provides a five point bonus to community public water systems serving populations of less than 10,000.

(Source: Amended at 24 Ill. Reg. 13236, effective NOV 11 2000)

## Section 663.270 Scoring Conventions

- a) For purposes of assigning the A2 factor, projects that are being proposed to meet regulations that have been published in the Federal

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Register but have a future effective date will be considered the same as projects to correct violations of regulations that are already in effect.

- b) Projects that are being proposed to prevent future acute or chronic violations predicted by compliance monitoring are eligible for A2 factor points as follows:

1) The applicant's compliance monitoring records must show concentrations of the contaminant to be controlled of at least 75% of the acute or chronic violation limit (existing contaminant concentration divided by acute/chronic limit x 100 = % violation limit);

2) The A2 points for the project will be calculated by multiplying the percentage violation limit by the appropriate acute or chronic A2 points in Section 663.230(b).

c) For integrally related projects which require construction by more than one applicant local-government-unit, each project will proceed at the Loan Priority Index of the component project with the most favorable priority ranking.

d) Where adequate data is not available to calculate an A1 or A2 factor, a value of 1.0 will be assigned.

(Source: Amended at 24 Ill. Reg. 13236, effective NOV 11 2000)

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- 1) Heading of the Part: Procedures for Issuing Loans from the Public Water Supply Loan Program

- 2) Code Citation: 35 Ill. Adm. Code Part 662

- 3) Section Numbers: Adopted Action:

662.120 Amendment  
 662.130 Amendment  
 662.210 Amendment  
 662.310 Amendment  
 662.320 Amendment  
 662.330 Amendment  
 662.340 Amendment  
 662.410 Amendment  
 662.420 Amendment  
 662.430 Amendment  
 662.450 Amendment  
 662.470 Amendment  
 662.480 New  
 662.510 Amendment  
 662.520 Amendment  
 662.610 Amendment  
 662.620 Amendment  
 662.630 Amendment  
 662.640 Amendment  
 662.670 Amendment  
 662.710 Amendment  
 662.740 Amendment  
 662.810 Amendment  
 662.820 Amendment  
 662.830 Amendment  
 662.910 Amendment  
 662.920 Amendment  
 662.930 Amendment  
 662.935 New  
 662.940 Amendment  
 662.1010 Amendment  
 662.1030 Amendment  
 662.1110 Amendment  
 662.1120 Amendment  
 App. A, EXHIBIT B New  
 App. A, EXHIBIT D

- 4) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.9 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.9]

- 5) Effective Date of Amendments: November 1, 2000

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- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: April 14, 2000, 24 Ill. Reg. 6185
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposal and final version:
- Numerous technical, grammatical, and typographical changes were made in the text.
  - In Section 662.430(a)(3)(C), "that no unlawful or corrupt practice has taken place" was changed to "that it is not aware of any unlawful or corrupt practices having taken place".
  - In Section 662.480, "from the effective date of these rules..." was changed to show an effective date of November 1, 2000.
  - In Section 662.610(i), "All subagreements shall be awarded" was changed to "All subagreements greater than \$25,000 shall be awarded".
  - In Section 662.610(i), "practicable extent" was changed to "practicable extent and not be in conflict with other State statutes."
  - In Section 662.610(i)(2), "The aggregate amount of the contract to be competitively negotiated is allowed by State law for units of local government or does not exceed \$25,000 for privately owned community water supplies..." was deleted and the subsection was renumbered.
  - In Section 662.740(c), "self-study course such as" was changed to "self-study course such as, but not limited to".
  - In Section 662.930(f), "will" was changed to "shall".
  - In Section 662.935(a)(2), "prior to the issuance of a loan." was changed to "prior to the first loan disbursement".
  - In Section 662.935(b), "a separate account in its books to record the revenues" was changed to "a separate accounting in its books to record the funds available".



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k. In Section 662.935(d), "submit to the Agency a statement on the status of the account required by subsection (b) that contains the status of the revenue account, including" was changed to "submit to the Agency the status of the funds available for repayment of the loan, including".

l. In Section 662.935(e), "will" was changed to "shall".

m. Appendix A, Exhibit B, was added to the amendments to correct a typographical error.

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this adopted amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: These amendments establish the requirements for issuing low interest rate loans to certain categories of privately owned community water supplies. The categories of privately owned community water supplies that can seek low interest loans are investor-owned water utilities regulated by the Illinois Commerce Commission, not-for-profit water corporations and mutually owned or cooperatively owned community water supplies.

16) Requests for information and questions regarding this adopted rule may be directed to:

Ronald Drainer, Manager  
Infrastructure Financial Assistance Section  
Bureau of Water  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East, P.O. Box 19276  
Springfield, IL 62794-9276  
(217) 782-2027

The full text of the adopted amendments begins on the next page:

## ENVIRONMENTAL PROTECTION AGENCY

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE F: PUBLIC WATER SUPPLIES  
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

## PART 662

PROCEDURES FOR ISSUING LOANS FROM THE  
PUBLIC WATER SUPPLY LOAN PROGRAM

## SUBPART A: INTRODUCTION

Section	Purpose
662.110	Administration
662.120	Definitions
662.130	Incorporations by Reference
662.140	

SUBPART B: FEDERAL REQUIREMENTS FOR  
THE PUBLIC WATER SUPPLY LOAN PROGRAM

Section	Uses of the Public Water Supply Loan Program
662.210	Agency Responsibilities Under the Federal Safe Drinking Water Act
662.220	

SUBPART C: LIABILITIES AND REMEDIES FOR  
FAILURE TO COMPLY WITH LOAN PROCEDURES

Section	Noncompliance with Loan Procedures
662.310	Stop-Work Order
662.320	Termination
662.330	Waiver of Procedures
662.340	

## SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS

Section	Project Priority Determination
662.410	Pre-Applications for Financial Assistance and Identification of Projects to be Funded
662.420	Financial Assistance Application and Approval
662.430	Fixed Loan Rate
662.440	<del>Restrictions on</del> Refinancing
662.450	Limitation on Design Cost
662.460	Limitation on Loan Amount
662.470	Loans to Privately Owned Community Water Supplies
662.480	

## SUBPART E: PROJECT PLANNING REQUIREMENTS FOR LOAN PROJECTS

Section

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662.610 Loan Applicant's Responsibilities During Project Planning  
662.620 State Environmental Review

## SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

Section  
662.610 Requirements for Subagreements  
662.620 Construction Contracts  
662.630 Contracts for Personal and Professional Services  
662.640 Compliance with Procurement Requirements for Construction Contracts  
662.650 Disputes  
662.660 Indemnity  
662.670 Covenant Against Contingent Fees

## SUBPART G: REQUIREMENTS APPLICABLE TO CONSTRUCTION INITIATION, CHANGES, COMPLETION AND OPERATION OF PROJECT

Section  
662.710 Construction Initiation  
662.720 Project Changes  
662.730 Construction Engineering  
662.740 Operation and Maintenance of the Project  
662.750 Final Inspection

## SUBPART H: REQUIREMENTS APPLICABLE TO ACCESS, AUDITING, AND RECORDS

Section  
662.810 Access  
662.820 Audit and Records  
662.830 Single Audit Act

## SUBPART I: FINANCIAL AND MATERIAL CAPACITY REQUIREMENTS-PGR-OPERATION

## MAINTENANCE-AND

## REPLACEMENT-REVENUE-SYSTEM-FINANCIAL-CAPABILITY

## DEDICATED-SOURCE-OF-REVENUE-AND-PROPERTY-INSURANCE

Section  
662.910 Operation, Maintenance and Replacement Revenue System  
662.920 Financial Capability  
662.930 Dedicated Source of Revenue for Local Government Units  
662.935 Source of Revenue and Security for Privately Owned Community Water Supplies  
662.940 Floodplain Insurance

## SUBPART J: REQUIREMENTS APPLICABLE TO LOAN DISBURSEMENTS

Section  
662.1010 Determination of Allowable Costs

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662.1020 Use of Loan Funds and Payment of Unallowable Costs  
662.1030 Disbursement of Loan Funds

## SUBPART K: PROCEDURES FOR LOAN REPAYMENT AND DELINQUENT REPAYMENT

Section  
662.1110 Loan Repayment to the Agency  
662.1120 Delinquent Loan Repayments  
APPENDIX A Executive Orders  
EXHIBIT A Executive Order 11625  
EXHIBIT B Executive Order 12138  
EXHIBIT C Executive Order 12549  
EXHIBIT D Executive Order 11246

AUTHORITY: Implementing and authorized by Sections 19.1 through 19.9 of the Illinois Environmental Protection Act (415 ILCS 5/19.1 through 19.9).

SOURCE: Emergency rule adopted at 21 Ill. Reg. 10091, effective July 17, 1997, for a maximum of 150 days; emergency expired on December 13, 1997; adopted at 22 Ill. Reg. 3782, effective February 10, 1998; amended at 24 Ill. Reg. 15245, effective 11/1/99.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses and subscript are denoted by brackets.

## SUBPART A: INTRODUCTION

## Section 662.120 Administration

a) The Public Water Supply Loan Program, an interest-bearing special fund, will be administered by the Agency as an instrumentality of the State of Illinois in accordance with the Operating and Capitalization Grant Agreements between the Agency and the USEPA in accordance with State and federal laws.

b) Copies of forms that are required and sample language that can be used to satisfy the requirements of a PWSF loan application can be obtained from the Illinois Environmental Protection Agency, Infrastructure Financial Assistance Section, 1021 North Grand Avenue East, Post Office Box 19276, Springfield, Illinois 62794-9276.

(Source: Amended at 24 Ill. Reg. 15245, effective 11/1/99.)

## Section 662.130 Definitions

a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act (Act) (415 ILCS 5) and the regulations adopted thereunder.

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## b) For the purposes of this Part, the following definitions apply:

Addenda -- Documents issued by the loan applicant after advertisement for bids, which modify or interpret the contract documents, drawings, and specifications, by additions, deletions, clarifications or corrections.

Agency -- Illinois Environmental Protection Agency.

Billed Customers--The number of customers receiving a bill who are responsible for paying for the proposed improvements.

Binding Commitment -- A legal obligation between the Agency and a local government unit or privately owned community water supply to provide financial assistance from the Public Water Supply Loan Program to that local government unit or privately owned community water supply, specifying the terms and schedules under which assistance is provided. The loan agreement will be considered a binding commitment.

Building Cost -- The cost of erection of construction contract line items. Building costs do not include preliminary planning, engineering, architectural, legal, fiscal, administrative or contingency costs.

Capitalization Grant -- The actual federal funds received by the Agency for deposit into the PWSLP as a result of the capitalization grant agreement with the USEPA.

Capitalization Grant Agreement -- The agreement entered into each federal fiscal year between the Agency and the USEPA for the purpose of providing a grant to capitalize the PWSLP and enable the Agency to provide assistance for construction of public water supply facilities.

Change Order -- A written order by the loan recipient to the contractor authorizing an addition, deletion or revision in the work within the general scope of the contract documents, or authorizing an adjustment in the contract price or contract time.

Construction -- Any one or more of the following which is undertaken for a public purpose: preliminary planning to determine the feasibility of the public water supply facilities; engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement or extension of public water supply facilities, or the inspection or supervision of any of the foregoing items. (415 ILCS 5/19.2(d))

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Contract Documents -- The contract, including but not limited to advertisement for bids, information for bidders, bid, bid bond agreement, payment bond, performance bond, notice of award, notice to proceed, change order, drawings, specifications, and addenda.

Dedicated Source of Revenue -- The type of security and the basis of legal authorization which are dedicated by legislative enactment or other appropriate authority along with the applicable revenue source pledged for repayment and recorded in deposited into an account for restricted to the purpose of loan repayment to the PWSLP, which is sufficient to repay the principal and interest on the loan.

Design -- All administrative, legal, and engineering tasks, subsequent to project plan approval but prior to advertisement for bid proposal, associated with receiving approval of a loan application. This shall include the following: surveys, designs, plans, working drawings, specifications, soil investigations and any other tests or process determinations required to establish design criteria, and development of user charge systems.

Director -- Director of the Illinois Environmental Protection Agency.

Fixed Loan Rate -- One-half the market interest rate but not less than 2.50%.

Fund -- The Water Revolving Fund authorized by 415 ILCS 5/19.3, consisting of the Water Pollution Control Loan Program, the Public Water Supply Loan Program, and the Loan Support Program.

Health Hazard Determination -- A health hazard determination exists when concentrations of regulated contaminants, in a water supply, or concentrations of contaminants not otherwise regulated, exceed health effects standards published in U.S. Environmental Protection Agency (USEPA) Health Advisories, or by the Illinois Department of Public Health or by the Centers for Disease Control and Prevention or which otherwise pose an immediate threat to public health.

Initiation of Loan Repayment Period -- The date in a loan agreement or amendment that establishes the beginning point of the loan repayment period.

Initiation of Operation -- The date specified by the loan agreement on which use of the project began operation for the purposes that it was planned, designed and constructed.

Intended Use Plan -- A plan which includes a description of the short and long term goals and objectives of the PWSLP, project categories, terms of financial assistance, communities and population benefited.

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[415 ILCS 5/19.2(e)]

Interest Rate -- Not less than one-fourth of the market interest rate rounded to the nearest .01%.

Loan Agreement -- The contractual agreement between the Agency and the local government unit or privately owned community water supply which contains the terms and conditions governing the loan issued from the PWSLP.

Loan Applicant -- A local government unit or privately owned community water supply that has applied for a loan from the PWSLP for construction of public water supply facilities.

Loan Commitment Letter -- The letter that is sent by the Agency to the loan applicant which reserves loan funds and identifies the requirements that must be satisfied prior to the execution of the loan agreement.

Loan Procedures -- The procedures for issuing loans from the Public Water Supply Loan Program as set out in this Part 662.

Loan Recipient -- A local government unit or privately owned community water supply which has been provided a loan for construction of public water supply facilities from the PWSLP and which will own and be responsible for the operation and maintenance of the community water supply facility.

Loan Support Rate -- Not more than one-fourth of the market interest rate rounded to the nearest .01%.

Local Government Unit -- A county, municipality, township, municipal or county sewerage or utility authority, sanitary district, public water district, improvement authority or any other political subdivision whose primary purpose is to construct, operate and maintain wastewater treatment facilities or public water supply facilities or both. [415 ILCS 5/19.2(g)]

Market Interest Rate -- The mean interest rate of the 20 General Obligation Bond Buyer Index, from July 1 to June 30 of the preceding State fiscal year rounded to the nearest .01%.

Maximum Contaminant Level (MCL) -- The maximum permissible level of a contaminant in water that is delivered to any user of a public water system.

Operating Agreement -- The agreement between the Agency and USEPA that establishes the policies, procedures and activities for the

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application and receipt of federal capitalization grant funds for capitalization of the PWSLP.

Principal -- All disbursements, including interest and loan support accrued on the disbursements, that will be financed at the time the repayment schedule period begins.

Privately Owned Community Water Supply -- An investor-owned water utility, if under Illinois Commerce Commission regulation and operating as a separate and distinct water utility; a not-for-profit water corporation, if operating specifically as a water utility; and a mutually owned or cooperatively owned community water system, if operating as a separate water utility. [415 ILCS 5/19.2]

Project -- The activities or tasks the Agency identifies in the loan agreement for which the loan recipient may expend loan funds.

Project Priority List -- An ordered listing of projects developed in accordance with the priority system described in 35 Ill. Adm. Code 663: Subpart B (Procedures for Calculating the Loan Priority Index) which the Agency has determined are eligible to receive financial assistance from the PWSLP.

PWSLP -- The Public Water Supply Loan Program as authorized by Section 19.2 of the Environmental Protection Act [415 ILCS 5/19.2].

Responsible Bid -- A bid that demonstrates the apparent ability of the bidder to successfully meet all the requirements specified in the contract documents. Information required to demonstrate responsibility may be corrected or submitted after bid opening.

Responsive Bid -- A bid that complies with all meaningful or material aspects of the contract documents. The bid must constitute a definite and unqualified offer to meet the material requirements of the contract documents including any terms that affect price, quality, quantity or time of delivery, or are clearly identified in the contract documents to be complied with at the risk of bid rejection for non-responsiveness. Bid defects resulting in a non-responsive bid may not be corrected after the bid opening.

SDWA -- The Federal Safe Drinking Water Act, as amended (42 USC 6-6-300f).

Source of Revenue -- The revenues of the system, including accounts receivable and the proceeds that are sufficient to repay the principal and interest on the loan.

Subagreement -- A written agreement between the loan recipient and



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another party and any tier of agreement thereunder to furnish services, supplies, or equipment necessary to complete the project for which a loan was provided, including contracts for personal and professional services and purchase orders.

Treatment Technique Requirement -- An enforceable procedure developed by USFPA when it is not economically or technologically feasible to ascertain the level of contaminant. Public water supplies must follow this procedure and treat their drinking water supplies according to USEPA specifications to ensure the contaminant is controlled.

Useful Life -- The estimated period during which a public water supply facility is intended to be operable.

USEPA -- The United States Environmental Protection Agency.

(Source: Amended at 24 Ill. Reg. 13 245, effective NOV 1 1990)

SUBPART B: FEDERAL REQUIREMENTS FOR  
THE PUBLIC WATER SUPPLY LOAN PROGRAM

Section 662.210 Uses of the Public Water Supply Loan Program

- a) To accept and retain funds from grant awards, appropriations, transfers and payments of interest and principal;
- b) To make direct loans at or below market interest rates to any eligible local government unit or to any eligible privately owned community water supply to finance the construction of public water supplies;
- c) To buy or refinance debt obligations of a local government unit incurred on or after July 17, 1991;
- d) To guarantee local obligations where such action would improve credit market access or reduce interest rates;
- e) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State, if the proceeds of such bonds will be deposited in the FWSLP. [415 ILCS 5/19.3(d)]

(Source: Amended at 24 Ill. Reg. 13 242, effective NOV 1 1990)

SUBPART C: LIABILITIES AND REMEDIES FOR FAILURE TO COMPLY WITH LOAN PROCEDURES

Section 662.310 Noncompliance with Loan Procedures

- a) In the event of noncompliance with any condition or obligation arising out of the loan, including any action that would jeopardize or compromise the source of revenue for repayment of the loan or security

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interest, ~~that occurs before the final audit~~, the Director may take any necessary action as provided by law or by the loan agreement against the loan recipient including, but not limited to, one or more of the following actions:

- 1) Commence legal action in a court of competent jurisdiction;
  - 2) Declare all amounts under the loan immediately due and payable, enforce any security, and recover all loan funds;
  - 3) Terminate the loan pursuant to Section 662.330 (Termination) of this Subpart; or part of the project work pursuant to Section 662.320 (Stop-Work Order) of this Subpart; or
  - 5) Reduce the amount of the loan by the amount of misused funds.
- b) No action shall be taken under this Section without Notice to Prior Consultation with the loan recipient.
- c) In determining whether to take action the Agency shall, at a minimum, consider mitigating or aggravating factors, including but not limited to the severity and number of the violations; whether the violation is a continuing one; whether the loan recipient can remedy the violation; and whether the loan recipient remains capable of complying with the approved project work.

(Source: Amended at 24 Ill. Reg. 13 245, effective NOV 1 1990)

Section 662.320 Stop-Work Order

- a) In the event of any violation of this Part 662 or non-compliance with the terms of the loan agreement, ~~the Agency may, for any violation of this Part~~ by written order, require the loan recipient to stop all or any part of the project work for a period of not more than 30 days after the date of the order, and for any further period to which the parties may agree. Any such order shall include a list of the project activities to which it applies. Upon receipt of a stop-work order, the loan recipient shall immediately comply with its terms and shall minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within 30 days after the date of the stop-work order, or within the period of any extension to which the parties have agreed, the Agency shall:
  - 1) Cancel the stop-work order upon resolution of the violation or cause leading to that stop-work order; or
  - 2) Terminate the work covered by the stop-work order as provided in Section 662.330(a) of this Subpart.

- b) If a stop-work order is canceled or the period of the order or any extension thereof expires, the loan recipient shall resume work. An adjustment may be made in the loan period, the project period, the loan amount, or any combination of these, and the loan amended accordingly, if the loan recipient asserts a written claim for such an adjustment within 30 days after the end of the work stoppage.

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- c) All costs that are incurred by the loan recipient after the receipt of a stop-work order or during any agreed to extension of the stop-work order period to which the Agency and the loan recipient have agreed, shall be deemed unallowable costs unless otherwise authorized by the Agency in writing or authorized under the loan procedures.

(Source: Amended at 24 Ill. Reg. 13.245, effective 3/1/90)

**Section 662.330 Termination**

- a) Loan Termination by the Agency  
The Agency, by written notice to and after consultation with the loan recipient, may terminate the loan in whole or in part. Cause for termination shall include, but not be limited to, failure by the loan recipient to comply with the terms and conditions of the loan or to provide adequate funds. Upon loan termination, the loan recipient shall refund any unexpended loan funds to the State of Illinois to be deposited in the PMSRP, except for such portion as may be required to pay the allowable costs of materials and equipment furnished or services rendered under an enforceable contract prior to the effective date of the termination.

- b) Project Termination by the Loan Recipient  
A loan recipient who wishes to terminate a project for which the loan has been provided must submit a written request to the Agency that documents good cause for the proposed termination. If the Agency agrees that there is good cause for termination of all or any portion of the project, it shall enter into a termination agreement with the recipient or unilaterally terminate the loan. If the Agency finds that the loan recipient has terminated the project without good cause, it shall declare the loan in default, and all loan funds previously paid to the loan recipient, together with interest thereon, shall be returned to the State of Illinois in accordance with a schedule established by the Agency for deposit into the PMSRP. Good cause to terminate a loan project includes, but is not limited to:

- 1) Changes in economic circumstances within the loan recipient's service area; and
- 2) Information that the approved treatment technology will not perform as originally anticipated.

(Source: Amended at 24 Ill. Reg. 13.245, effective 3/1/90)

**Section 662.340 Waiver of Procedures**

- a) Except as provided in subsection (b) below of this Section or otherwise required by law, the Director may waive any of the loan procedures, either in whole or in part, by a written statement to the

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loan applicant, either as a special condition of the loan or otherwise, provided the Director finds that the procedure or requirement to be waived is not necessary to insure the integrity of the project, will not reduce an applicant's ability to repay the loan to the Agency or will not, in general, weaken the financial position of the PMSRP. The waiver may be subject to such additional conditions the Director deems necessary.

b) The following procedures will not be waived:

- 1) Section 662.410 (Project Priority Determination) of this Part
- 2) Section 662.440 (Fixed Loan Rate) of this Part
- 3) Section 662.510 (Loan Applicant's Responsibilities During Project Planning) of this Part
- 4) Section 662.520 (State Environmental Review) of this Part
- 5) Section 662.620(d)(3) (Wage Provisions) of this Part
- 6) Section 662.620(d)(4) (MBE/WBE Requirements) of this Part
- 7) Section 662.620(d)(5) (Debarment Barred or Suspension Suspended Certification) of this Part
- 8) Section 662.630(a)(1) (MBE/WBE Requirements) of this Part
- 9) Section 662.630(a)(4) (Debarment Barred or Suspension Suspended Certification) of this Part
- 10) Section 662.740 (Operation and Maintenance of the Project) of this Part
- 11) Section 662.910 (Operation, Maintenance and Replacement Revenue System) of this Part
- 12) Section 662.930 (Dedicated Source of Revenue for Units of Local Government) of this Part
- 13) Section 662.935 (Source of Revenue and Security for Privately Owned Community Water Supplies) of this Part.

(Source: Amended at 24 Ill. Reg. 13.115, effective 3/1/90)

**SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS****Section 662.410 Project Priority Determination**

- a) Financial assistance from the PMSRP will be provided only to local government units or privately owned community water supplies for projects on the Project Priority List developed by the Agency pursuant to 35 Ill. Adm. Code 663.
- b) The Project Priority List sets out the priority for receipt of loans for each loan applicant. Priorities will be established in accordance with 35 Ill. Adm. Code 663 after the receipt by the Agency of loan pre-applications pursuant to Section 662.420 (Pre-Applications for Financial Assistance and Identification of Projects to be Funded) of this Subpart.
- c) Projects included on the Intended Use Plan will be selected from projects on the Project Priority List to be funded in priority order,

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provided the project is scheduled to initiate construction by March 31 of the subsequent federal fiscal year.

(Source: Amended at 24 Ill. Reg. 13.1.5, effective 4-1-2004)

### Section 662.420 Pre-Applications for Financial Assistance and Identification of Projects to be Funded

a) Every loan applicant shall submit to the Agency a signed and dated pre-application form that includes at a minimum the following items:

- 1) Legal name of applicant and eligibility status;
- 2) Address;
- 3) Authorized representative-name and title;
- 4) Reason for project;
- 5) Number of billed customers;
- 6) Project description;
- 7) Cost estimator; and
- 8) Project schedule.

1) ~~The reason for the proposed project;~~

2) ~~A description of the proposed project;~~

3) ~~An estimated project cost;~~

4) ~~A proposed schedule for construction; and~~

5) ~~The population to be served by the proposed project.~~  
b) Loan applicants seeking for financial assistance, during any federal fiscal year commencing October 1, must file a new pre-application annually by the preceding March 31 to qualify for possible inclusion in the Intended Use Plan.

c) A project with approved project planning may be added to the Project Priority List at any time by the submission of a pre-application.

d) ~~The by July 1 of each year, the Agency shall publish a list of the projects which are proposed for funding during the next federal fiscal year. These projects will be included in the Intended Use Plan.~~

e) After January 1 of each year, the Agency may bypass projects on the Intended Use Plan that cannot meet the schedule to initiate construction by March 31 of that year. The Agency will evaluate projects in priority order and may offer loan commitments to other projects on the Project Priority List in accordance with Section 662.430 (Financial Assistance Application and Approval) of this Subpart.

(Source: Amended at 24 Ill. Reg. 13.1.5, effective 4-1-2004)

### Section 662.430 Financial Assistance Application and Approval

a) In order to issue a loan commitment letter, the Agency must have received the following documents:

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1) A completed loan application form for financial assistance providing at a minimum the following items:

A) Legal name of applicant;

B) Address;

C) Authorized representative-name and title;

D) Cost estimator;

E) Amount requested for loan; and

F) Verification and signature;

2) An approved project plan in accordance with Section 662.510 (Loan Applicant's Responsibilities During Project Planning) of this Part;

3) A Loan Program Certifications form that includes at a minimum the following:

A) The loan applicant must agree to pay all project costs not covered by the loan;

B) The loan applicant must certify that it has analyzed the costs and the financial impacts of the proposed project and that it has the financial capability to repay the loan as well as the technical and managerial capacity to maintain compliance with the Safe Drinking Water Act;

C) The loan applicant must certify that it is not aware of any unlawful or corrupt practices having taken place in the planning or design of the proposed project;

D) The loan applicant must certify that it has complied with all applicable State and Federal statutory and regulatory requirements in regard to the proposed project;

E) The loan applicant must certify that it is not barred from being awarded a contract or subcontract under the Illinois Procurement Code [30 ILCS 500] and

F) The loan applicant must provide its correct Federal Taxpayer Identification Number and certify that it is authorized to do business in the State of Illinois;

4) A "Certification Regarding Debarment, Suspension, and Other Responsibility Matters" (EPA Form 5700-49) showing compliance with Federal Executive Order 12549 (Appendix A, Exhibit C);

5) An executed inter-governmental agreement necessary for project implementation, where necessary;

5\*) ~~Certification of compliance with federal Executive Order 12549 (Appendix A, Exhibit C) regarding debarment, suspension and other responsibility matters;~~

6) A resolution or ordinance, or legal document authorizing a representative of the loan applicant to sign loan application documents;

7) A certification Evidence of compliance with the Relocation and Real Property Acquisition Policies Act of 1970 (42 USC 4601) (F-55-91-646) must be submitted by loan applicants that are local government units;

8) A certification statement that the necessary project site,

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- rights-of-way, easements and permits have been obtained;
- 9) A resolution ~~statement~~ of intent to comply with the National Flood Insurance Act of 1968 (42 USC 1985e-4001-4127) in accordance with Section 662.940 (Floodplain Insurance) of this Part;
- 10) An approved operation, maintenance and replacement revenue system in accordance with Section 662.910 (Operation, Maintenance and Replacement Revenue System) of this Part;
- 11) Documentation to support the loan applicant's ability to repay the loan ~~An enacted--authorized--loan--security--and--approved~~ ~~dedicated--source--of--revenue~~ in accordance with Section 662.930 (Dedicated Source of Revenue for Local Government Units) of this Part or Section 662.935 (Source of Revenue and Security for Privately Owned Community Water Supplies) of this Part;
- 12) The construction drawings and specifications, suitable for bidding purposes;
- 13) A construction permit application and permit or "authorization to construct" from the Agency, pursuant to the provisions of Sections 14 through 17 or Sections 39 and 40 of the Environmental Protection Act (415 ILCS 5/14 through 17, 39 and 40), whichever is applicable;
- 14) A project completion schedule;
- 15) An executed contract for design and construction related work in accordance with Section 662.630 (Contracts for Personal and Professional Services) of this Part;
- 16) An EPA Form 4700-4 - Compliance Report ~~A--compliance--report--(state~~ ~~Viz--Civil--Rights--Act--of--1964--as--amended--(P--88-3527))~~;
- 17) An enacted ordinance or other legally binding instrument authorizing the bonds, notes, security agreements or other evidence of indebtedness to be delivered to the Agency; and
- 18) Proof of publication of the ordinance and any notice required by State statute, where applicable;
- 19) A legal opinion from the loan applicant's recipient's legal counsel with respect to the validity and enforceability of the loan applicant's recipient's obligations and the absence of conflicts with other agreements, notes, bonds or ordinances; and
- 20) Any other executed legal agreements necessary for project implementation.
- b) In addition to the items identified in subsection (a) of this Section above, the Agency must have received the following items before it will issue the actual Loan Agreement:
- 1) A certified copy of the published bid advertisement(s) advertisement;
  - 2) Any addenda issued by the loan applicant, if applicable;
  - 3) A certification-of-publication;
  - 3) The bidder's 5% bid bond or cashier's check for not less than 5% of the total bid;
  - 4) The low bidder's certificate of nonsegregated facilities showing

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- compliance with 18 USC 1001;
- 56) A summary of the evidence that the contractor and engineer have met WBE/WDF requirements of federal Executive Orders 11675 and 12138 (Appendix A, Exhibits A and B);
- 57) The submittal of bid tabulations;
- 76) An A letter from the engineering firm to the applicant containing the consultant's analysis of the bids and the engineer's recommendations for the award of the bids;
- 89) A copy of the successful bid proposal(s) proposals;
- 94) The notice of the applicant's intent to award; and
- 10) A "Certification Regarding Department, Suspension, and Other Responsibility Matters" (EPA Form 5700-49) showing compliance with federal Executive Order 12549 (Appendix A, Exhibit C) is required from the prime contractor and the engineer; and
- 11) A certification from the prime contractor and engineer that they have not or will not use the services of anyone who has been debarred or suspended under federal Executive Order 12549 for construction work; this certification is also required for all subcontracts over \$25,000;
- 11) A certification regarding compliance with Section 33E of the Illinois Criminal Code of 1961 [720 ILCS 5/33E].
- (Source: Amended at 24 Ill. Reg. 11/1/2000, effective 11/1/2000)
- Section 662.450 Restrictions on Refinancing**
- a) Design costs set forth in Section 662.460 (Limitation on Design Costs) of this Subpart, and bidding costs related to eligible construction contracts incurred prior to the award of the loan agreement, are eligible for refinancing.
  - b) Costs under a construction contract executed prior to the award of the loan agreement shall be eligible for refinancing only when the following conditions apply:
    - 1) The project is necessary to correct a health hazard determination, or the project is under an enforceable order to correct maximum contaminant level or treatment technique requirement violations, or project costs are associated with drilling and testing wells for source water quantity and quality; and
    - 2) The project costs in subsection (b)(1) were incurred and construction was initiated after July 17, 1997; and
    - 3) The loan applicant has received written approval from the Agency prior to the award of the construction contract.
  - c) No project costs incurred prior to the execution of the loan agreement shall be eligible for loan assistance except:
    - 1) Design costs set forth in Section 662.460 (Limitation on Design Costs) and bidding costs related to eligible construction



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contracts; and

- 2) ~~Project costs where the local obligations were incurred and construction was initiated after July 17, 1997 to eliminate health hazard as defined in 35 Ill. Adm. Code 663-1.04.~~
- b) ~~Notwithstanding subsection (a)(2) above, no costs incurred under a construction contract awarded more than 90 days after the effective date of this Part 662 shall be eligible for loan refinancing unless the Agency has granted written approval prior to the contract award.~~

(Source: Amended, at 24 Ill. Reg. 1.3.1.5, effective 1/1/00.)

**Section 662.470 Limitation on Loan Amount**

The annual loan amount available to a loan recipient cannot exceed ~~the lesser of \$50 million or 25% of monies available for loans, unless the amount required for projects with approvable loan applications is less than the available funds for that fiscal year.~~

(Source: Amended at 24 Ill. Reg. 1.3.1.5, effective 1/1/00.)

**Section 662.480 Loans to Privately Owned Community Water Supplies**

Loans to privately owned community water supplies as defined in Section 662.130 (Definitions) of this Part, shall be limited as follows:

- a) For the time period November 1, 2000 to November 1, 2002, eligible privately owned community water supplies with 1,000 billed customers or greater can receive a loan from the Public Water Supply Loan Program.
- b) After November 1, 2002, eligible privately owned community water supplies with 500 billed customers or greater can receive a loan from the Public Water Supply Loan Program.
- c) After November 1, 2003, eligible privately owned community water supplies with 100 billed customers or greater can receive a loan from the Public Water Supply Loan Program.

(Source: Added at 24 Ill. Reg. 1.3.1.2, effective 1/1/00.)

**SUBPART E: PROJECT PLANNING REQUIREMENTS FOR LOAN PROJECTS****Section 662.510 Loan Applicant's Responsibilities During Project Planning**

- a) The loan applicant shall:

- 1) Undertake and complete project planning, which shall consist of plans and studies that are directly related to the construction of public water supply facilities, to maintain compliance with

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- applicable State and federal requirements as specified in 35 Ill. Adm. Code, Subtitle F and the Federal Safe Drinking Water Act;
- 2) Demonstrate to the Agency through its plans and studies the need for the facilities for which loan assistance is being requested; and

- 3) Demonstrate by a systematic evaluation of feasible alternatives that the proposed facilities represent the cost-effective means of meeting applicable drinking water standards and goals, recognizing environmental and social conditions as set forth below.

- b) If any information required to be furnished as part of a project plan has been developed separately, it shall be furnished and incorporated by reference into the project plan. Planning previously or collaterally accomplished under local, State or Federal programs may be utilized to the extent applicable.

- c) The project plan shall be submitted to the Agency for approval. Where applicable, the applicant shall also submit drafts of any legally enforceable ~~inter-governmental~~ agreements or demonstrations of legal authority necessary to plan implementation.

- d) The project plan may include more than one construction project and may provide the basis for several subsequent projects. The Agency shall review any project plan that has previously served as the basis for a loan, to determine if changes have occurred that require amendment of the plan for the subsequent project. If substantial changes have occurred that warrant revision or amendment of the plan as specified in Section 662.520 of this Subpart, the loan applicant shall revise or amend and resubmit it for Agency approval in accordance with Section 662.520(a) and (b).

- e) A project plan shall include all applicable elements in sufficient detail to, at minimum, comply with all applicable construction permit supporting data requirements of 35 Ill. Adm. Code 652.104:

- 1) A complete description of the public water supply system of which the proposed project is a part, identification of any existing violations of federal or State public water supply regulations, and identification of the needs to be addressed by the proposed project.

- 2) A discussion of the technical, financial, and managerial considerations that form the basis for the applicant's selection of the cost-effective project from the range of alternatives available and considered. When appropriate to the project scope, the following issues must be addressed:

- A) The relationship of the nature, size and capacity of each alternative to the needs to be served, including reserve capacity;
- B) A discussion of the operational requirements of each alternative and provisions for disposal of waste by-products in accordance with State requirements;
- C) An assessment of the capability of each alternative to

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- maintain compliance with drinking water standards;
- D) An inventory of the relative environmental impacts of each alternative and a discussion of the measures that would be undertaken during design and construction to mitigate or minimize negative environmental impacts;
- E) Adequate basis of design information for each alternative to confirm the reasonability of cost estimates;
- F) A comparison of costs for each alternative, including both capital and operational costs over the design life of the facilities.
- 3) A detailed description of the alternative selected for loan assistance, including preliminary engineering data, complete cost estimates for design and building, and a projected schedule for completion. The engineering data shall include, to the extent appropriate, flow diagrams, unit process descriptions, detention times, flow rates, unit capacities, etc., sufficient to demonstrate the project proposed will be designed in accordance with 35 Ill. Adm. Code 651 through 654.
- 4) Any required comments or approvals from relevant federal, State, interstate, regional or local agencies, including, at a minimum, comments from the Illinois Historic Preservation Agency and the Illinois Department of Natural Resources ~~State-Clearinghouse~~ ~~28-465-645/46-347~~.
- 5) An implementation plan for the proposed recommendations, including necessary financial arrangements for operating the facility and repayment of the proposed loan amount, as well as the impact of these costs on the system users.

(Source: Amended at 24 Ill. Reg. 16265, effective July 1, 2000.)

## Section 662-520 State Environmental Review

- a) Prior to making a final determination on the acceptability of any project plan, the Agency shall undertake an environmental review. The Agency may categorically exclude certain classes of projects from environmental review when, by virtue of their limited scope, the projects have no potential for negative environmental impacts.
- b) The Agency shall not begin its environmental review until it has determined that the project plan conforms to the requirements of Section 662-510 (Loan Applicant's Responsibilities During Project Planning) of this Subpart, and that, based on the information available, all reasonable measures have been taken in the planning to avoid and mitigate negative environmental impacts.
- c) The scope of the Agency's environmental review shall include, but not be limited to, an assessment of the impacts of both the loan funded project and the overall planning on rare and endangered species, historic and cultural resources, prime agricultural land, air and

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- water quality, recreational areas, wetlands, floodplains and other sensitive environmental areas. The review shall also assess the direct and indirect impacts of construction ~~on the loan applicant~~.
- d) For all projects requiring an environmental review, the Agency will assess the environmental impacts of the proposed project and prepare a written Preliminary Environmental Impacts Determination (PEID). The public will be given an opportunity to comment on the project plan and the Agency's environmental impacts assessment.
- e) The PEID shall be mailed to the loan applicant and other interested parties, inviting public comment. Within 60 days after receipt of the Agency's preliminary determination, the loan applicant shall hold a public hearing on the plan and the Agency's PEID for the purpose of obtaining public comment. The loan applicant shall allow an additional 15 days from the date of the public hearing for the submission of ~~public~~ written comments from the public.
- f) The time and place of the public hearing shall be conspicuously and adequately announced at least 10 days before the hearing. In addition, the Agency's PEID document shall be displayed at a convenient local site sufficiently prior to the hearing to obtain a level of public participation appropriate to the scope and impacts of the proposed project.
- g) The loan applicant shall provide written notice of the public hearing to interested local, State and federal agencies, State and regional clearinghouses, citizen groups and local public officials.
- h) The loan applicant shall provide the Agency with an accurate summary of all public comments received, together with any proposed amendments to the plan made in response to these comments.
- i) Upon receipt of this public hearing summary and after the expiration of the 15 day written comment period, the Agency shall issue ~~the following action:~~
- 1) An unconditional approval of the plan (original or as amended); or
- 2) A conditional approval of the plan with special conditions; or
- 3) A disapproval of the plan based on evidence of significant negative environmental impacts for which appropriate mitigative measures have not been identified; or
- 4) A determination of the need for an Environmental Impact Statement (EIS) under the National Environmental Policy Act (42 USC 4321-4332). The Agency may change its disapproval to approval or conditional approval based on the recommendations of the EIS.
- j) For projects categorically excluded from the environmental review process, the Agency shall provide to the applicant a Notice of Intent to Issue a Categorical Exclusion. The applicant shall publish the Notice in a newspaper of local record, and allow 15 days for public comment. If no valid objection is raised to the Categorical Exclusion, the Agency shall issue an unconditional approval of the project plan. Should valid concerns be raised over potential environmental impacts, the Agency shall proceed with an environmental

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review under this Section 662.620 or issue a conditional approval where the applicant incorporates mitigative measures that would clearly resolve the environmental concerns.

- k) Agency approval of a project plan shall be valid for purposes of loan funding for a period of 5 ~~five~~ years, after which time the plan must be updated and resubmitted to the Agency for review and approval. The Agency shall prepare a revised environmental review and provide an opportunity for public comment.

- l) At any time within 5 ~~five~~ years from the date of project plan approval, the Agency may rescind its approval and require the planning to be amended, if there are changes to the scope of proposed construction or significant alterations to planning area conditions or underlying assumptions that might alter the previous conclusions regarding environmental impacts or cost-effectiveness. For projects where the amended planning would result in substantial changes in environmental or economic impacts, the Agency may require public comment prior to granting approval of the amended plan.

- m) Additions to the project scope or changes to the location of proposed construction activity shall require an amendment to an approved project plan. Where the Agency determines that the proposed changes will not alter the previous environmental impacts findings, it will approve planning amendments by letter. In other cases, additional environmental review and public comment may be required.

- n) Agency project planning determinations made in accordance with subsection (i) ~~above~~ shall be subject to the provisions of the Illinois Administrative Procedure Act (5 ILCS 100).

(Source: Amended at 24 Ill. Reg. 18.015, effective 1/1/2000)

## SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

## Section 662.610 Requirements for Subagreements

The following procedures shall apply to subagreements:

- a) Local Preference  
Local laws, ordinances, regulations or procedures that are designed to or operate to give local or in-State bidders or proposers preference over other bidders or proposers shall not be used in evaluating bids or proposals for subagreements under PWSLP loans.
- b) Profits  
Only fair and reasonable profits may be earned by contractors in subagreements under PWSLP loans. Profit included in a formally advertised, competitively bid, fixed price construction contract awarded pursuant to Section 662.620 (Construction Contracts) of this Subpart is presumed to be reasonable. If a subagreement is not competitively bid, the loan recipient shall submit to the Agency its basis for determination of reasonable profit.

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- c) Loan Recipient Responsibility

The loan recipient shall be responsible for the administration and successful accomplishment of the project for which PWSLP loan assistance is provided. The loan recipient shall be responsible for the settlement and satisfaction of all contractual and administrative issues arising out of subagreements, including, but not limited to, issuance of invitations for bids or requests for proposals, selection of contractors, award of contracts, protests of award, claims, disputes, and other procurement matters. With the prior written consent of the Agency, these functions may be performed for the loan recipient by an individual or firm retained for that purpose. Such an individual or firm shall be deemed the loan recipient's agent, and shall be subject to all the provisions of the loan agreement, including this Part 662, that apply to the loan recipient.

- d) Privy of Contract

Neither the Agency nor the State of Illinois shall be a party to any subagreement (including contracts or subcontracts), or to any solicitation or request for proposals thereunder.

- e) Subagreements shall:

- 1) Be directly related to the accomplishment of the loan recipient's approved work program;
- 2) Be in the form of an executed written agreement (except for small purchases of \$25,000 or less);
- 3) Be for monetary or in-kind consideration; and
- 4) Not be in the nature of a grant or gift.

- f) Documentation

- 1) Procurement records and files for purchases in excess of \$25,000 shall include the following:
  - A) The basis for contractor selection;
  - B) The justification for lack of competition if competition appropriate to the type of project work to be performed is required but not obtained; and

- C) The basis for award cost or price.
- 2) Procurement documentation as described in subsection (f)(1) ~~above~~ shall be retained by the loan recipient or contractor(s) for the period required by Section 662.620 (Audit and Records) of this Part.

- g) Subagreements shall only be awarded to persons or organizations that:

- 1) Have adequate financial resources for performance;
- 2) Have the necessary experience, organization, technical qualifications, and facilities, or a firm commitment, arrangement, or ability to obtain these requirements;
- 3) Have the staffing sufficient to comply with the proposed or required completion schedule for the project;
- 4) Have a satisfactory record of integrity, judgment and performance;
- 5) Have an adequate financial management system and audit procedure which is consistent with generally accepted accounting standards

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in accordance with the American Institute of Certified Public Accountants Professional Standards;

6) Maintain a standard of procurement in accordance with this Part 662;

7) Maintain a property management system which provides adequate procedures for the acquisition, maintenance, safeguarding and disposition of all property; and

8) Conform to the civil rights, equal employment opportunity (Appendix A, Exhibit D) and labor law requirements of this Part 662.

h) Fraud and Other Unlawful or Corrupt Practices

1) The obtaining and administration of loans from the PWSLP, and of subagreements awarded by loan recipients, shall be free from bribery, graft, kickbacks, and other corrupt practices. The loan recipient shall bear the primary responsibility for prevention and detection of such conduct and for cooperation with appropriate authorities in the prosecution of any such conduct.

2) The loan recipient shall effectively pursue available State or local legal and administrative remedies, and take appropriate remedial action with respect to any allegations or evidence of illegality or corrupt practices that are brought to its attention. The loan recipient shall advise the Agency immediately when any such allegation or evidence comes to its attention, and shall periodically advise the Agency of the status and ultimate disposition of any matter.

i) Negotiation of Subagreements

All subagreements greater than \$25,000 shall be awarded by formal advertising unless the loan recipient determines, and the Agency concurs, that it is impracticable and infeasible to use formal advertising. Negotiated contracts must be competitively awarded to the maximum practicable extent and not be in conflict with other State statutes. Procurements may be negotiated by the loan recipient, if approved by the Agency, for the following reasons:

1) Public Agency, as evidenced by governmental declaration, will not permit the delay incident to advertising (e.g., an emergency procurement); or

2) The aggregate amount involved does not exceed \$49,999; or

23) The materials or services to be procured are available from only one person or firm; or

34) The procurement is for personal or professional services, or for any services to be rendered by an educational institution; or

45) No responsive, responsible bids at acceptable price levels have been received after formal advertising; or

56) The procurement is for material or services where the prices are established by law; for technical items or equipment requiring standardization and interchangeability of parts with existing equipment; for experimental, developmental or research work; for highly perishable materials; for resale; or for technical or

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specialized supplies requiring substantial initial investment for manufacture.

(Source: Amended at 24 Ill. Reg. 153.5, effective 11/1/80)

## Section 662.620 Construction Contracts

The following procedures shall apply to construction contracts (subagreements) awarded by loan recipients for the construction phase only. They shall not apply to personal and professional service contracts.

a) The contract documents to be submitted to the Agency shall require a bid bond or cashier's check for not less than 5% of the bid amount, executed contract performance and payment bonds for the bid amount, certificate of insurance with loan recipient added as additional insured, and the notice to proceed. **Contract documents shall include bid performance and payment bonds.**

b) Each contract shall be awarded after formal advertising, unless negotiation is permitted under Section 662.610(i) (Negotiation of Subagreements) of this Subpart. Formal advertising shall be in accordance with the following:

1) Evidence of advertising

The loan recipient shall submit to the Agency a certified copy of the bid advertisement which notifies the bidders that the procurement will be subject to regulations contained in the procedures for issuing loans from the PWSLP as set out in this Part 662, the Prevailing Wage Act [820 ILCS 130], the Employment of Illinois Workers on Public Works Act [30 ILCS 570], and Executive Order No. 11246, as amended (Appendix A, Exhibit D).

2) Adequate bidding documents

Bidding documents (invitations for bid) shall be made available by the loan recipient and shall be furnished upon request in a timely manner. A complete set of bidding documents shall be maintained by the loan recipient and shall be available for inspection and copying by any party. The bidding documents shall include:

A) A complete statement of the work to be performed, including necessary drawings and specifications, and the required completion schedule. (Drawings and specifications may be made available for inspection instead of being furnished.);

B) The terms and conditions of the contract to be awarded;

C) A clear explanation of the method of bidding, the method of evaluation of bid prices, and the basis and method for award of the contract;

D) The statement that any contract awarded in response to the bid is expected to be funded in part by a loan from the PWSLP, and that neither the State of Illinois nor any of its departments, agencies or employees is or will be a party to



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- this bidding or any resulting contract;
- E) Responsibility requirements or criteria that will be used in evaluating bidders, provided that an experience requirement or performance bond may not be used unless adequately justified by the loan applicant **recipient**;
- F) A copy of subsections (b)(1)(G) and (H) below shall be included in the proposal form to be used by bidders and shall constitute a representation and certification to be considered as a part of their bid;
- G) By submission of the bid each bidder certifies, and in the case of a joint bid each party thereto certifies as to his or her own organization, that in connection with the bid:
- i) The prices in the bid have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, or as to any matter relating to the prices with any other bidder or with any competitor;
  - ii) Unless otherwise required by law, the prices quoted in the bid have not knowingly been **7-prior-to-opening** directly or indirectly disclosed to any other bidder or to any competitor prior to opening; and
  - iii) No attempt has been made or will be made by the bidder to induce any other person or firm to submit or withhold a bid for the purpose of restricting competition. Also each bidder shall submit a certification regarding compliance with Article 33B of the Illinois Criminal Code of 1961 (720 ILCS 5/33B).
- H) Each person signing the bid shall certify that:
- i) He or she is the person in the bidder's organization responsible for the decision as to the prices being bid and that he or she has not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above; or
  - ii) He or she is not the person in the bidder's organization responsible for the decision as to the prices being bid, but that he or she has been authorized to act as agent certifying that such persons have not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above, and as their agent shall so certify. He or she shall also certify that he or she has not participated, and will not participate, in any action contrary to subsection (b)(1)(G) above.
- 32) Addenda to bidding documents
- If the loan applicant **recipient** wishes to amend any part of the bidding documents (including drawings and specifications) during the period when bids are being prepared, it shall send written addenda to all firms who have obtained bidding documents, in time

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- to be considered prior to the bid opening time. When appropriate, the period for submission of bids shall be extended. All addenda to the bidding documents should be submitted to the Agency for approval prior to the bid opening.
- 43) Award to the low, responsive, responsible bidder
- A) After bids are opened, they shall be evaluated by the loan applicant **recipient** in accordance with the methods and criteria set out in the bidding documents. Items that shall be submitted to the Agency include a bid tabulation, the loan applicant's or its agent's analysis of bids, and recommendation for the award and the loan applicant's letter of intent to award of the official minutes of board approval.
- B) The loan applicant **recipient** may reserve the right to reject all bids if it has documented sound business reasons. Unless all bids are rejected, award shall be made to the low, responsive, responsible bidder after the bid evaluation has been submitted to the Agency and written notice of Agency approval has been received by the loan applicant **recipient**.
- C) If the award is intended to be made to a firm which did not submit the lowest bid, prior to any award, the loan applicant **recipient** shall submit to the Agency a written statement, explaining why each lower bidder was deemed not responsive or not responsible.
- c) Negotiations of Contract Amendments (Change Orders)
- 1) Loan recipient responsibility
 

The loan recipient shall be responsible for negotiation of construction contract change orders. This function may be performed by the loan recipient directly or, if authorized, by its consulting engineer. During negotiations the loan recipient shall:

    - A) Make sure that the contractor has a clear understanding of the scope and extent of work and other essential requirements;
    - B) Assume that the contractor demonstrates that he or she will make available or will obtain the necessary personnel, equipment and materials to accomplish the work within the required time; and
    - C) Maintain a summary of all negotiations and the engineer's independent cost estimate.
  - 2) Changes in contract price or time
 

The contract price or time may be changed only by a change order. When negotiations are required, they shall be conducted in accordance with subsection (c) of this Section.
  - 3) For each change order the contractor shall submit to the loan recipient for review sufficient cost and pricing data to enable the loan recipient to ascertain the necessity and reasonableness

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of costs and amounts proposed, and the allowability and eligibility of costs proposed.

4)

Agency review

For each change order, the loan recipient shall submit to the Agency for approval the following documentation:

- A) A description of the changed work;
- B) The contractor's proposal itemizing the cost and time to complete the changed work;
- C) The recipient's or engineer's estimate of the cost and time to complete the changes;
- D) Two copies of the executed change order with justification including, but not limited to, the need for the proposed work and the technical solution; and
- E) The summary of negotiations and resolution between the engineer's independent cost estimate and the contractor's proposal.

## d) Required Construction Contract Provisions

Each construction contract shall include the following provisions:

- 1) Audit: access to records
  - A) The contractor shall maintain books, records, documents and other evidence directly pertinent to performance on loan work consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards. The contractor shall also maintain the financial information and data used by the contractor in the preparation or support of any cost submissions required under subsection (c) above, (Negotiation of Contract Amendments (Change Orders)) and a copy of the cost summary submitted to the owner. The Illinois Auditor General, the owner, the Agency, or any of their authorized representatives shall have access to the books, records, documents, and other evidence for purposes of inspection, audit, and copying. The contractor shall provide facilities for access and inspection.
  - B) For a formally advertised, competitively awarded, fixed price contract, the contractor shall include access to records as specified in subsection (d)(1)(A) above for all negotiated change orders and contract amendments in excess of \$25,000 that affect the contract price. In the case of all other prime contracts, the contractor shall agree to include access to records as specified above in all his or her contracts and all tier subcontracts or change orders in excess of \$25,000 that are directly related to project performance.
  - C) Audits shall be consistent with generally accepted auditing standards in accordance with the American Institute of Certified Public Accountants Professional Standards.
  - D) The contractor shall agree to the disclosure of all

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information and reports resulting from access to records pursuant to subsection (d)(1)(A) above. Where the audit concerns the contractor, the auditing agency shall afford the contractor an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report shall include the written comments, if any, of the audited parties.

- E) The records required by subsection (d)(1)(A) above shall be maintained and made available during performance of the work under the loan agreement and for 3 three years after the date of final loan audit. In addition, records that relate to any dispute or litigation or the settlement of claims arising out of any performance, costs or items to which an audit exception has been taken, shall be maintained and made available for 3 three years after resolution of such dispute, appeal, litigation, claim, or exception.
- F) The right of access will generally be exercised with respect to financial records under:
  - i) Negotiated prime contracts contractors;
  - ii) Negotiated change orders or contract amendments in excess of \$25,000 affecting the price of any formally advertised, competitively awarded, fixed price contract; and
  - iii) Subcontracts or purchase orders under any contract other than a formally advertised, competitively awarded, fixed price contract.

G) The right of access will generally not be exercised with respect to a prime contract, subcontract, or purchase order awarded after effective price competition. In any event, the right of access shall be exercised under any type of contract or subcontract:

- i) With respect to records pertaining directly to contract performance, excluding any financial records of the contractor; and
- ii) If there is any indication that fraud, gross abuse, or corrupt practices may be involved in the award or performance of the contract or subcontract.

- 2) Covenant against contingent fees
 

The contractor shall warrant that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty, the owner shall have the right to annul the contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

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## 3) Wage provisions

The contractor shall pay prevailing wages in accordance with the Illinois Prevailing Wage Act [820 ILCS 130].

- 4) MBE/WBE requirements
- The contractor shall provide evidence, including but not limited to a copy of the advertisement(s) and the record of negotiation to the Department of Transportation, in accordance with federal Executive Order 11625 and 12138 (topendix A and B), to assure that small, minority and women's businesses are used when possible as sources of supplies, equipment, construction and services consistent with the provisions of the Agency's Operating Agreement with USEPA.

- 5) Debarment or suspension provisions
- The contract shall require the successful bidder(s) to submit a "Certification Regarding Debarment, Suspension and Other Responsibility Matters" (EPA Form 5700-49) showing compliance with federal Executive Order 12549 (Appendix A, Exhibit C), certification-of-compliance-with-federal--Executive--Order--12549 (Appendix-A--Exhibit-C)--regarding-debarment,-suspension-and-other-responsibility-matters.

- 6) Nonsegregated facilities provisions
- The successful bidder shall be required to submit a certification of nonsegregated facilities as prescribed in 18 USC 1001.

- e) Subcontracts under Construction Contracts

The award or execution of all subcontracts by a prime contractor and the procurement and negotiation procedures used by the prime contractor shall comply with the following:

- 1) All applicable provisions of federal, State and local law;
- 2) All provisions of this Part 662 regarding fraud and other unlawful or corrupt practices;
- 3) All provisions of this Part 662 with respect to access to facilities, records and audit of records.
- 4) All provisions of subsection (d)(5) that require a "Certification Regarding Debarment, Suspension and Other Responsibility Matters" (EPA Form 5700-49) showing compliance with federal Executive Order 12549 (Appendix A, Exhibit C). Subsection (d)(5) above requires a certification-of-compliance-with-federal--Executive--Order--12549--regarding-debarment,-suspension-and-other-responsibility-matters.

- f) Contractor Bankruptcy
- In the event of a contractor bankruptcy, the loan recipient shall notify the agency and shall keep the agency advised of any negotiations with the bonding company including any proposed settlement. The agency may participate in those negotiations and will advise the loan recipient of the impact of any proposed settlement to the loan agreement. The loan recipient shall be responsible for assuring that every appropriate procedure and incidental legal requirement is observed in advertising for bids and re-awarding a

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## construction contract.

(Source: Amended at 24 Ill. Reg. 16245, effective NOV 01 2000)

## Section 662.630 Contracts for Personal and Professional Services

All subagreements for personal and professional services for design or construction expected to exceed \$25,000 in the aggregate shall include the following subagreement provisions:

- a) Subagreements for personal and professional construction services shall include:

- 1) Evidence, such as, but not limited to, a copy of the advertisement(s) and the record of negotiation in accordance with federal Executive Orders 11625 and 12138 (Appendix A, Exhibits A and B), that affirmative steps have been taken to assure that small, minority and women's businesses are used when possible as sources of supplies, equipment, construction, and services consistent with the provisions of the Agency's Operating Agreement with USEPA;

- 2) An audit and access to records clause that provides as follows:

- A) Subsections (a)(2)(B) through (E) below shall be included in all contracts and all subcontracts directly related to project services that are in excess of \$25,000.

- B) Books, records, documents and other evidence directly pertinent to performance of PWSUP loan work under this agreement shall be maintained consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards. The Agency or any of its authorized representatives shall have access to the books, records, documents and other evidence for the purpose of inspection, audit and copying. Facilities shall be provided for access and inspection.

- C) Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards.

- D) All information and reports resulting from access to records pursuant to subsection (a)(2)(B) above shall be disclosed to the Agency. The auditing agency shall afford the engineer an opportunity for an audit exit conference and an opportunity to comment on pertinent portions of the draft audit report. The final audit report shall include the final conclusions, if any, of the audited parties.

- E) Records under subsection (a)(2)(B) above shall be maintained and made available during performance of project services under this agreement and for three years after the final loan closing. In addition, those records that relate to any dispute pursuant to Section 662.650 (Disputes) of this

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Subpart or litigation or the settlement of claims arising out of project performance or costs or items to which an audit exception has been taken, shall be maintained and made available for three years after the resolution of the appeal, litigation, claim or exception:

- 3) A "covenant against contingent fees" clause as follows:  
"The professional services contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty, the loan recipient shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee";

- 4) A "Certification Regarding Debarment, Suspension, and Other Responsibility Matters" (EPA Form 5700-49) showing compliance with Federal Executive Order 12549 (Appendix A, Exhibit C) A certification of compliance with Federal Executive Order 12549 (Appendix A, Exhibit C) regarding debarment, suspension and other responsibility matters;

- 5) Description of the scope and extent of the project work;
- 6) Inclusion of performance and completion of the contract work project tasks and appropriate, dates for completion of significant project tasks and completion.

- 7) A method of compensation.
- b) Subagreements for personal and professional design services shall include the subagreement provisions contained in subsections (a)(2) through (a)(4) above. In addition, the subagreements shall be accompanied by a statement regarding the use of small, minority and women's business during the design service phase.

- c) If, at the time of contract execution, any of the elements required in this Section 662.630 cannot be defined adequately for later tasks, those tasks shall not be included in the contract at that time.

(Source: Amended at 24 Ill. Reg. 16245, effective NOV 01 2000)

## Section 662.640 Compliance with Procurement Requirements for Construction Contracts

- a) Loan Recipient Responsibility  
The loan recipient shall be responsible for selecting the low, responsive, and responsible bidder or other contractor in accordance with applicable requirements of State, federal, and local laws and ordinances, as well as for the specific requirements of the loan agreement directly affecting procurement. The loan recipient shall

also be responsible for the initial resolution of complaints based upon alleged violations. Any complaints made to the Agency concerning any alleged violation of law in the procurement of construction services or materials for a project involving construction work will be referred to the loan recipient for resolution. The loan recipient shall promptly determine each complaint on its merits, and shall allow the complainant and any other party who may be adversely affected to state in writing or at a conference the basis for their views concerning the proposed procurement. The loan recipient shall promptly furnish to the complainant and to other affected parties, by certified mail, a written summary of its determination, substantiated by an engineering or legal opinion providing a justification for its determination.

- b) Time Limitations  
Complaints should be made as early as possible during the procurement process, preferably prior to the bid opening, to avoid disruption of the procurement process. The complaint shall be mailed (certified mail, return receipt requested), or otherwise delivered, no later than 5 five working days after the complainant becomes aware of an alleged violation. If there is no agreement between the parties within 7 seven days following the loan applicant's response, unless all bids are rejected, the matter shall be resolved in accordance with subsection (c) below.

- c) Remedies, counter-claims, disputes and other matters in question  
All claims, counter-claims, disputes and other matters in question between the recipient and a contractor arising out of, or relating to, subagreement or its breach shall be decided by arbitration if the parties agree, or in a court of competent jurisdiction within the State.

- d) Deferral of Procurement Action  
If the determination of a complaint by the loan recipient is adverse to the complainant, the loan recipient shall defer issuance of its solicitation or award or notice to proceed under the contract (as appropriate) for 7 seven days after mailing or delivery of the determination. If the determination (whether made by the loan recipient, the arbitrator or the court) is favorable to the complainant, the terms of the solicitation shall be revised or the contract shall be awarded, as appropriate, in accordance with the determination.

(Source: Amended NOV 01 2000 24 Ill. Reg. 16245, effective

## Section 662.670 Covenant Against Contingent Fees

The loan recipient shall warrant that no person or agency has been employed or retained to solicit or secure a PMSUP loan upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For breach or



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SUBPART H: REQUIREMENTS APPLICABLE TO ACCESS, AUDITING AND RECORDS

Section 662.810 Access

- a) The Agency and its designated representatives shall have access, during normal business hours and at any other time during which work is being performed, to the premises where any portion of the work for which the FWPLP loan was provided is being performed. After final loan closing, Agency personnel or any authorized Agency representative shall have access to the project records as defined in Section 662.820 (Audit and Records) of this Subpart Part and to the project site during normal business hours, to the full extent of the loan recipient's right to access.
- b) Every contract entered into by the loan recipient for construction work, and every subagreement, shall provide Agency representatives with access to the work. The contractor or subcontractor shall provide facilities for access and inspection. The contract or subagreement shall also provide that the Agency or any authorized representative shall have access to any books, documents, papers and records that are pertinent to the project for the purpose of making audit, examination, excerpts and transcriptions.
- c) Failure by the loan recipient or any of its contractors or subcontractors to provide access after 10 ten days written notice from the Agency shall be cause for termination of the loan pursuant to Section 662.330 (Termination) of this Part, and funds to be repaid to Illinois for deposit into the FWSF, and to be expended for loan funds in addition to any costs of the contractor or subcontractor found in noncompliance with this Section 662.810 shall repay any loan funds previously spent.

(Source: Amended at 24 Ill. Reg. 16245, effective NOV 01 2000)

Section 662.820 Audit and Records

- a) The loan recipient shall maintain books, records, documents, reports, and other evidentiary material and accounting procedures and practices consistent with generally accepted government accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards.
- b) For purposes of this Section 662.820 "records" shall include, but not be limited to: the following shall constitute records--for purposes of this Section:
  - 1) Documentation of the receipt and disposition by the loan recipient of all financial assistance received for the project, including both State financial assistance and any matching share or cost sharing; and

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violation of this warranty, the Agency shall have the right to annul the loan in accordance with Section 662.310 (Noncompliance With Loan Procedures) of this Part or to deduct from the loan, or otherwise recover, the full amount of the commission, percentage, brokerage or contingent fee.

(Source: Amended at 24 Ill. Reg. 16245, effective NOV 01 2000)

SUBPART G: REQUIREMENTS APPLICABLE TO CONSTRUCTION INITIATION, CHANGES, COMPLETION AND OPERATION OF PROJECT

Section 662.710 Construction Initiation

Upon approval by the Agency of the loan applicant's financial assistance application in accordance with Section 662.430 (Financial Assistance Application and Approval) of this Part, and subject to the availability of funds, the Agency will issue the loan agreement and authorize the initiation of construction.

(Source: Amended at 24 Ill. Reg. 16245, effective NOV 01 2000)

Section 662.740 Operation and Maintenance of the Project

In order for the Agency to approve the final inspection for the project, the loan recipient must certify that it has a certified operator and that it has provided the following training and operation and maintenance documents:

- a) Training and training materials for the project, including the project equipment and process units included in the project
- b) An operation and maintenance reference library that includes, but is not limited to, the following:
  - 1) Manufacturer's literature, shop drawings and warranties as well as a maintenance schedule for the equipment--and--process--units included in the project;
  - 2) The plans of record with valve indices for the equipment and process units included in the project; and
  - 3) A maintenance schedule for the equipment and process units included in the project.
- c) Training pertaining to the general operation of public water supply facilities or distribution systems, consisting of an operator self-study course such as, but not limited to, "Water Treatment Plant Operation," Volumes I and II, or "Small Water System Operation and Maintenance," or "Water Distribution System Operation and Maintenance," California State University, Sacramento.

(Source: Amended at 24 Ill. Reg. 16245, effective NOV 01 2000)

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- \*) Documentation of the ~~the~~ costs charged to the project, including all direct and indirect costs of whatever nature incurred for the performance of the project for which the loan has been provided.
- c) The loan recipient's facilities, or any facilities engaged in the performance of the PWSUP loan project, and the loan recipient's records shall be subject to inspection and audit by the Agency or its authorized representative, at the times specified in Section 662.810 (Access) of this Subpart.
- d) The loan recipient shall preserve and make its records available to the Agency or its authorized representative for the following periods:
- 1) For all costs associated with design and construction, for 3 years after final closing.
  - 2) For all other accounting records concerning the loan, for 3 years from the date of the transaction; and
  - 3) For any longer period required by law or by subsections (e) and (f) below.
- e) If the loan is completely or partially terminated, the records relating to the terminated work shall be preserved and made available for 3 years after any resulting final termination settlement.
- f) Records that relate to appeals under the "Disputes" clause, litigation or the settlement of claims arising out of the performance of the PWSUP loan project, or to project costs and expenses to which exception has been taken by the Agency or its authorized representatives, shall be retained until the appeals, litigation, claims, or exceptions have been completed.
- g) Failure of the loan recipient or its contractors or subcontractors to make records available to the Agency as required by Section 662.810 (Access) of this Subpart after 10 days written notice shall be cause for termination of the loan pursuant to Section 662.330 (Termination) of this Part and for refund to the State of Illinois for deposit into the PWSUP of any unexpended loan funds. In addition, any loan recipient, contractor or subcontractor found in noncompliance with this Section 662.820 shall repay any loan funds previously spent.

(Source: Amended 24 Ill. Reg. 16245, effective NOV 01 2000)

## Section 662.830 Single Audit Act

A local government unit or a privately owned community water supply having not-for-profit status shall comply with the provisions of the Single Audit Act of 1996 [31 USC 7501 et seq.]. ~~The loan-recipient shall comply with the provisions of the Single Audit Act of 1996 [31 USC 7501 et seq.]~~

(Source: Amended 01 MAR 00 24 Ill. Reg. 16245, effective NOV 01 2000)

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SUBPART I: FINANCIAL AND MANAGERIAL CAPACITY REQUIREMENTS FOR OPERATIONS  
 MAINTENANCE-AND  
 REPLACEMENT-REVENUE-SYSTEM-FINANCIAL-CAPABILITY-REQUIRED  
 SOURCE-OF-REVENUE-AND-PROBABLE-INSURANCE

## Section 662.910 Operation, Maintenance and Replacement Revenue System

- a) In order for the loan agreement to be issued, the Agency must have approved the loan applicant's ~~proposed~~ source of revenue for operation, maintenance, and replacement (O/M/R) costs. The proposed source of revenue must be enacted and entered into the loan agreement. The Agency must determine if the proposed source of revenue can be used to replace the O/M/R revenue system in accordance with the following criteria:
- 1) For the first year of operation of new facilities, operation, maintenance and replacement costs shall be based upon past experience or some other rational method that can be demonstrated to be applicable.
  - 2) The loan recipient shall review annually and revise periodically the ~~proposed~~ revenue source to reflect actual water works operation, maintenance, and replacement costs. The Agency may request a report on the status of the projected costs, actual costs, revenue generated and fund balances at any time.
  - 3) The ~~proposed~~ revenue source shall generate sufficient revenue to offset the cost of all water works operation, maintenance and replacement required to be provided by the loan recipient.
  - 4) If the project is for a regional community ~~public~~ water supply facility that distributes water to other public water supplies, appropriate municipal ordinances, intergovernmental or service agreements or other appropriate authorizations must be submitted.
  - c) Upon approval of a loan recipient's ~~proposed~~ O, M & R revenue source, the implementation and maintenance of the source shall become a condition of the loan subject to Section 662.310 (Noncompliance with Loan Procedures) of this Part.
  - d) ~~The loan-recipient shall maintain records necessary to document compliance in accordance with the Local Records Act [50-ILCS-205.7]~~
  - e) The Agency or its authorized representative shall have access to all books, documents, papers, and records of the loan recipient for the purpose of making audit, examination, excerpts, and transcriptions in order to ensure compliance with subsection (b) above.

(Source: Amended 24 Ill. Reg. 16245, effective NOV 01 2000)

## Section 662.920 Financial Capability

- a) The loan applicant shall demonstrate to the Agency that it has the necessary legal, financial, managerial and technical institutions

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## capability to:

- 1) Construct ~~construct~~, operate and maintain the project for the life of the public water supply facilities;
- 2) Retire ~~retire~~ the loan, including the execution of any necessary legally enforceable ~~intergovernmental~~ agreements and any enactments ~~the enactment of any local~~ ~~legislation~~ necessary to recover adequate capital costs to repay the loan; and
- 3) Meet ~~meet~~ any covenants and requirements in the loan agreement.
- b) To demonstrate financial, managerial and technical ~~institutional~~ capability, the loan applicant shall, at a minimum, show that:
  - 1) It is empowered under law to own, operate and maintain a public water supply facility including the facilities to be constructed under the loan;
  - 2) It has the necessary easements, titles, permits and legally enforceable ~~intergovernmental~~ agreements for loan project implementation, as identified in the project plan; and
  - 3) It has or will have the necessary qualified personnel to operate and maintain the facility.
- c) The financial capability demonstration shall be submitted to the Agency for approval and shall contain detailed project costs, existing and proposed operation, maintenance and replacement costs, existing and proposed local capital costs and historical information over the past 3 five years consisting of audited annual financial statements, ~~tax returns~~, Illinois Commerce Commission annual reports, bond ratings, number of billed customers ~~users~~ and tax rate levies.
- d) The Agency may suggest mitigative measures to improve the loan applicant's financial capability to undertake the project, including but not limited to action of grant funding, reduction of project costs, adding different ~~differentiated~~ revenues, efforts to reduce the number of delinquent billed customers ~~users~~ and changes to existing financial practices that may threaten generation of adequate revenues.
- e) The Agency may require a loan term of less than the 20 year maximum. In evaluating the appropriateness of alternative loan terms, the Agency shall consider such factors as the scope of the proposed project, the impacts of alternative loan terms on user fees, and the overall cost of the project.
- f) The Agency may also utilize available credit reporting services.

(Source: Amended ~~§ 600~~ 24 Ill. Reg. 16245, effective ~~1/1/00~~ )

## Section 662.930 Dedicated Source of Revenue for Local Government Units

- a) A source of revenue shall be dedicated and pledged to make the loan repayments. Prior to loan approval, the Agency shall review the proposed dedicated and pledged revenue source to assure that it will generate revenues adequate to make the loan repayments and

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- provide a continuing source of revenue adequate to make loan repayments for the term of the loan. If the source of revenue is pledged in a subordinate position to a revenue bond ordinance, the covenants regarding coverage and reserve for the revenue source shall be equivalent ~~identical~~ to those in the revenue bond ordinance. At a minimum, the reserve account shall be equal to the annual principal and interest payment funded within 2 years after the loan award.
- b) The necessary legislative enactments to dedicate and pledge the source of revenue must be in place before the Agency can make the first loan disbursement.
  - c) The loan recipient shall maintain a separate account in its books to record the dedicated revenues for loan repayment ~~establish an account, maintained by a bank or trust that is restricted to use for loan repayment, in which to deposit the dedicated revenues prior to the time of first loan disbursement.~~
  - d) The loan recipient shall, for the term of the loan, review and adjust the dedicated source of revenue as necessary to provide adequate funds for the repayment of the loan. The recipient shall timely notify, and submit to the Agency for approval, all proposed changes to the dedicated source of revenue.
  - e) Upon request, the ~~the~~ loan recipient shall submit to the Agency, upon request, a statement on the status of the ~~restricted~~ account required by subsection (c) of this Section ~~after initiation of the loan repayment period that contains the status of the dedicated revenue account, including the projected revenues, actual revenues fund balance, debt service obligations and other requirements of the loan agreement. The Agency's review approval will be based on, but not limited to, ensuring that the revised dedicated source of revenue is legally authorized, generates sufficient revenue and is otherwise in accordance with this Part 662.~~
  - f) In the event that the actual revenues fall short of the amount required to retire the loan, the Agency shall ~~with~~ require the loan recipient to re-examine the dedicated revenue source and restructure it as necessary.

(Source: Amended ~~§ 600~~ 24 Ill. Reg. 16245, effective ~~1/1/00~~ )

## Section 662.935 Source of Revenue and Security for Privately Owned Community Water Supplies

- a) The loan applicant must provide a detailed demonstration that there is an adequate source of revenue to repay the principal and interest due on the loan. The loan applicant must also demonstrate that there is adequate security for the full amount of the loan. This shall include, but is not limited to, the following:

1) The audited financial statements and tax returns required under Section 662.920 of this Subpart and the calculation of the ratios

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set forth in the Robert Morris Associates (RMA) Annual Statement Studies for the Standard Industrial Classification (SIC) #941. The statements must show a positive cash flow for all 3 years. 50% of the ratios must fall in the upper 2 quartiles when compared to the RMA Annual Statement Studies for SIC #941.

2) Any rate increase required to assure that adequate revenues will be generated to make the loan repayments must be adopted in a legally binding manner prior to the first loan disbursement. When applicable, approval of the rate increase by the Illinois Commerce Commission will be required.

3) Appropriate legal documents will be provided to enable the Agency to perfect its security interest in the revenues of the system and other personal properties offered as security by filing the necessary information under the Uniform Commercial Code.

4) The loan applicant must submit a legal description and current appraisal by a licensed appraiser of real property to be used for collateral. The mortgage must be executed prior to the issuance of the loan.

5) Approval from the Illinois Commerce Commission to incur debt, if applicable.

b) The loan recipient must maintain a separate accounting in its books to record the funds available for loan repayment.

c) The loan recipient must, for the term of the loan, review and adjust the source of revenue as necessary to provide adequate funds for the repayment of the loan. On the date the loan recipient must timely notify the Agency and submit to the Agency for approval, all proposed changes to the source of revenue.

d) Upon request, the loan recipient shall submit to the Agency the status of the funds available for repayment of the loan, including the projected revenues, actual revenues, fund balance, debt service obligations and other requirements of the loan agreement. The Agency's review will be based on, but not limited to, ensuring that the source of revenue generates sufficient revenue and is otherwise in accordance with this Part 662.

e) In the event that the actual revenues fall short of the amount required to retire the loan, the Agency shall require the loan recipient to re-examine the revenue source and restructure it as necessary.

(Source: Added at 24 Ill. Reg. 16245, effective NOV 01 2000)

## Section 662.940 Floodplain Insurance

a) If the loan project includes insurable structures that will be located within a designated floodplain area as defined in the National Flood Insurance Act of 1968 (42 USC 4101-4127), the loan recipient shall furnish written evidence that it is participating in the

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National Flood Insurance Program or that the construction areas have received official exclusion from the flood insurance requirements by the Federal Emergency Management Agency.

b) The loan recipient (or the construction contractor, as appropriate) shall acquire any flood insurance made available to it under the National Flood Insurance Act of 1968, as amended, and maintain the insurance for the entire useful life of the insurable structures.

c) The amount of insurance required shall be the lesser of the total project cost, excluding facilities that are uninsurable under the National Flood Insurance Program, or the maximum limit of coverage made available to the loan recipient under the National Flood Insurance Act of 1968.

d) The required insurance premium for the period of construction shall be an allowable project cost under Section 662.1010 (Determination of Allowable Costs) of this Part.

(Source: Amended NOV 01 2000, 24 Ill. Reg. 16245, effective NOV 01 2000)

## SUBPART J: REQUIREMENTS APPLICABLE TO LOAN DISBURSEMENTS

## Section 662.1010 Determination of Allowable Costs

The loan recipient shall be paid upon request, in accordance with Section 662.1030 (Disbursement of Funds) of this Subpart for all costs that are within the scope of the approved project, not to exceed the total amount of the loan, and that are determined to be allowable in accordance with the following criteria:

## a) Allowable Project Costs

All reasonable and necessary costs directly attributable to the design and construction of an eligible, loan assisted public water supply project, that are not excluded from loan funding by legislation or non-waivable regulations. Categories of necessary costs include, but are not limited to, the following:

- 1) The direct purchase of materials, equipment and personal services specifically necessary for the completion of a loan funded project;
- 2) Professional and consultant services contracts necessary for design, bidding, and construction of a loan funded project, except as elsewhere limited by this Part 662;
- 3) Costs under approved construction contracts; and
- 4) Costs for premiums for required flood insurance during the project construction period.

## b) Ineligible Costs

Categories of costs that are ineligible for loan assistance, and are not subject to the "reasonable and necessary" test of allowability include, but are not limited to, the following:

- 1) Costs for preparing a project planning document;



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- 2) Costs outside the scope of the approved project plan;
- 3) Site acquisition, including easement compensation;
- 4) Construction of any facilities that do not clearly fall within the definition of a community public water supply facility as contained in the federal Safe Drinking Water Act;
- 5) Costs of projects whose main purpose is fire protection or servicing future growth.
- c) Disputes Concerning Allowable Costs  
The loan recipient shall seek to resolve any questions relating to cost allowance or allocation at the earliest opportunity. Final determinations by the Director concerning the allowability of costs shall be conclusive.

(Source: Amended at 24 Ill. Reg. 16 24 5, effective NOV 01 2000)

## Section 662.1030 Disbursement of Loan Funds

- a) Disbursements are subject to the appropriation of funds by the General Assembly and the availability of cash deposited into the PMSUP from drawdowns from the USEPA Automated Clearing House, State matching funds, repayments of existing loans, interest earnings on money in the PMSUP, and money deposited into the PMSUP from other sources.

- b) Disbursements shall be made as follows:

- 1) After the receipt of a fully executed loan agreement, disbursement requests must be sent directly to the Agency. Actual disbursements shall be processed in accordance with the loan agreement.

- 2) Disbursements will be processed based on costs incurred that are due and payable as evidenced by invoices. The Agency may withhold any disbursement for a violation of the loan agreement conditions.

- c) The loan recipient shall make prompt payment to the contractor.

- d) The State shall not be required to reimburse the loan recipient (including the project) for the project's net cost, but the recipient with respect to the project shall be responsible for the net cost, which loan funds have been disbursed but not paid, minus any reasonable expenses incurred in securing these funds, to the State of Illinois for deposit in the PMSUP.

- e) Before the final principal amount of the loan can be established:

- 1) The Agency shall most conduct a final inspection and a project review to insure that all applicable loan conditions have been satisfied; and
- 2) The loan recipient must submit to the Agency a final waiver from the contractor and a Certification of Payment that all bills have been paid.

- f) The loan recipient must also submit a release, discharging the State of Illinois, its officers, agents and employees from all

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- liabilities, obligations and claims arising out of the project work or under the loan, subject only to such exceptions which may be specified in the release.
- g) Any use of loan funds at variance with this Part 662 shall result in repayment of those loan funds to the State of Illinois for deposit into the PMSUP.

(Source: Amended at 24 Ill. Reg. 16 24 5, effective NOV 01 2000)

## SUBPART K: PROCEDURES FOR LOAN REPAYMENT AND DELINQUENT REPAYMENT

## Section 662.1110 Loan Repayment to the Agency

Loan repayment to the Agency shall be in accordance with the loan repayment provisions schedule contained in the loan agreement.

- a) Loan repayments shall commence not later than 6 months after the initiation of the loan repayment period and shall be due semi-annually for local government units and quarterly for privately owned community water supplies unless the Agency determines that the deducted source of revenue justifies an alternative repayment plan.

- b) After the initiation of the loan repayment period date in the loan agreement, the Agency shall set a principal amount and give the loan recipient an interim repayment schedule.

- c) After a final cost review of the project, the Agency shall establish the final principal amount and give the loan recipient a final repayment schedule.

(Source: Amended at 24 Ill. Reg. 16 24 5, effective NOV 01 2000)

## Section 662.1120 Delinquent Loan Repayments

- a) If a repayment is not made according to the repayment schedule, the loan recipient shall notify the Agency in writing within 15 days after the repayment due date. The notification shall state the reasons for the repayment was not timely tendered and the circumstances under which the late repayment will be satisfied, and shall contain binding commitments to assure future repayments. After receipt of this notification, the Agency shall accept the plan of action in accordance with subsection (b).

- b) If a loan recipient fails to comply with subsection (a), the Agency shall promptly issue a notice of delinquency to the loan recipient and require a written response within 15 days. The notice of delinquency shall require the loan recipient to revise its rates, fees and charges to meet its obligations or to take other specified actions as may be appropriate to remedy the delinquency and to assure future repayments.

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- c) *In the event that the loan recipient fails to timely or adequately respond to a notice of delinquency, or fails to meet any obligations pursuant to subsections (a) and (b), the Agency shall pursue the collection of the amounts past due, the outstanding loan balance and the costs incurred thereby, either pursuant to the Illinois State Collection Act of 1986 [30 ILCS 210] or by any other lawful means including the taking of title by foreclosure or otherwise project or other property pledged, mortgaged, encumbered or otherwise available as security or collateral. [415 ILCS 5/19.6]*
- d) *if--a--repayment--is not made according to the repayment schedule; the loan recipient shall notify the Agency in writing within 15 days after the repayment due date; the notification shall state the reasons--the repayment was not timely tendered and the circumstances under which the late repayment will be satisfied--and shall contain binding commitments to assure future repayments--After receipt of this notification, the Agency shall accept the plan or take action in accordance with subsection (b) below.*
- e) *if--a--loan recipient fails to comply with subsection (d)--above, the Agency shall promptly issue a notice of delinquency--to the loan recipient--and require a written response within 30 days--The notice of delinquency shall require the loan recipient to revise its rates, fees--and charges--to meet its obligations or to take other specified actions as may be appropriate to remedy the delinquency and to assure future repayments.*
- f) *In the event that the loan recipient fails to timely or adequately respond to a notice of delinquency or fails to meet any obligations pursuant to subsections (d) and (e) above, the Agency shall pursue the collection of the amounts past due, the outstanding loan balance and the costs incurred thereby, either pursuant to the Illinois State Collection Act of 1986 [30 ILCS 210] or by any other lawful means.*

(Source: Amended at 24 Ill. Reg. 16290.00, effective NOV 11 2000)

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## Section 662. APPENDIX A Executive Orders

## Section 662. EXHIBIT B 552-EXHIBIT-B Executive Order 12138

May 18, 1979, 44 P.R. 29637

CREATING A NATIONAL WOMEN'S BUSINESS ENTERPRISE POLICY  
AND PRESCRIBING ARRANGEMENTS FOR DEVELOPING, COORDINATING  
AND IMPLEMENTING A NATIONAL PROGRAM FOR WOMEN'S BUSINESS  
ENTERPRISE

In response to the findings of the Interagency Task Force on Women Business Owners and congressional findings that recognize:

- 1) the significant role which small business and women entrepreneurs can play in promoting full employment and balanced growth in our economy;
- 2) the many obstacles facing women entrepreneurs; and
- 3) the need to aid and stimulate women's business enterprise;

By the authority vested in me as President of the United States of America, in order to create a National Women's Business Enterprise Policy and to prescribe arrangements for developing, coordinating and implementing a national program for women's business enterprise, it is ordered as follows:

1-1. Responsibilities of the Federal Departments and Agencies.

1-101. Within the constraints of statutory authority and as otherwise permitted by law:

- a) Each department and agency of the Executive Branch shall take appropriate action to facilitate, preserve and strengthen women's business enterprise and to ensure full participation by women in the free enterprise system.
- b) Each department and agency shall take affirmative action in support of women's business enterprise in appropriate programs and activities including but not limited to:
  - 1) management, technical, financial and procurement assistance,
  - 2) business-related education, training, counseling and information dissemination, and
  - 3) procurement.
- c) Each department or agency empowered to extend Federal financial assistance to any program or activity shall issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprise and to prohibit actions or policies which discriminate against women's business enterprise on the ground of sex. For purposes of this subsection, Federal financial assistance means assistance extended by way of grant, cooperative

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agreement, loan or contract other than a contract of insurance or guaranty. These regulations shall prescribe sanctions for noncompliance. Unless otherwise specified by law, no agency sanctions shall be applied until the agency or department concerned has advised the appropriate person or persons of the failure to comply with its regulations and has determined that compliance cannot be secured by voluntary means.

1-102. For purposes of the Order, affirmative action may include, but is not limited to, creating or supporting new programs responsive to the special need for women's business enterprise, establishing incentives to promote business or business-related opportunities for women's business enterprise, collecting and disseminating information in support of women's business enterprise, and insuring to women's business enterprise knowledge of and ready access to business-related services and resources. If, in implementing this Order, an agency undertakes to use or to require compliance with numerical set-asides, or similar measures, it shall state the purpose of such measure, and the measure shall be designed on the basis of pertinent factual findings of discrimination against women's business enterprise and the need for such measure.

1-103. In carrying out their responsibilities under Section 1-1, the departments and agencies shall consult the Department of Justice, and the Department of Justice shall provide legal guidance concerning these responsibilities.

## 1-2. Establishment of the Interagency Committee on Women's Business Enterprise.

1-201. To help insure that the actions ordered above are carried out in an effective manner, I hereby establish the Interagency Committee on Women's Business Enterprise (hereinafter called the Committee).

1-202. The Chairperson of the Committee (hereinafter called the Chairperson) shall be appointed by the President. The Chairperson shall be the presiding officer of the Committee and shall have such duties as prescribed in this Order or by the Committee in its rules of procedure. The Chairperson may also represent his or her department, agency or office on the Committee.

1-203. The Committee shall be composed of the Chairperson and other members appointed by the heads of departments and agencies from among high level policy-making officials. In making these appointments, the recommendations of the Chairperson shall be taken into consideration. The following departments and agencies and such other departments and agencies as the Chairperson shall select shall be members of the Committee: the

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Departments of Agriculture; Commerce; Defense; Energy; Health; Education, and Welfare; Housing and Urban Development; Interior; Justice; Labor; Transportation; Treasury; the Federal Trade Commission; General Services Administration; National Science Foundation; Office of Federal Procurement Policy; and the Small Business Administration. These members shall have a vote. Nonvoting members shall include the Executive Director of the Committee and at least one but no more than three representatives from the Executive Office of the President appointed by the President.

1-204. The Committee shall meet at least quarterly at the call of the Chairperson, and at such other times as may be determined to be useful according to the rules of procedure adopted by the Committee.

1-205. The Administrator of the Small Business Administration shall provide an Executive Director and adequate staff and administrative support for the Committee. The staff shall be located in the Office of the Chief Counsel for Advocacy of the Small Business Administration, or in such other office as may be established specifically to further the policies expressed herein. Nothing in this Section prohibits the use of other properly available funds and resources in support of the Committee.

## 1-3. Functions of the Committee.

The Committee shall in a manner consistent with law:

1-301. Promote, coordinate and monitor the plans, programs and operations of the departments and agencies of the Executive Branch which may contribute to the establishment, preservation and strengthening of women's business enterprise. It may, as appropriate, develop comprehensive interagency plans and specific program goals for women's business enterprise with the cooperation of the departments and agencies.

1-302. Establish such policies, definitions, procedures and guidelines to govern the implementation, interpretation and application of this order, and generally perform such functions and take such steps as the Committee may deem to be necessary or appropriate to achieve the purposes and carry out the provisions hereof.

1-303. Promote the mobilization of activities and resources of State and local governments, business and trade associations, private industry, colleges and universities, foundations, professional organizations, and volunteer and other groups toward the growth of women's business enterprise, and facilitate the coordination of the efforts

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- of these groups with those of the departments and agencies.
- 1-304. Make an annual assessment of the progress made in the Federal Government toward assisting women's business enterprise to enter the mainstream of business ownership and to provide recommendations for future actions to the President.
- 1-305. Convene and consult as necessary with persons inside and outside government to develop and promote new ideas concerning the development of women's business enterprise.
- 1-306. Consider the findings and recommendations of government and private sector investigations and studies of the problems of women entrepreneurs, and promote further research into such problems.
- 1-307. Design a comprehensive and innovative plan for a joint Federal and private sector effort to develop increased numbers of new women-owned businesses and larger and more successful women-owned businesses. The plan should set specific reasonable targets which can be achieved at reasonable and identifiable costs and should provide for the measurement of progress towards these targets at the end of two and five years. Related outcomes such as income and tax revenues generated, jobs created, new products and services introduced or new domestic or foreign markets created should also be projected and measured in relation to costs wherever possible. The Committee should submit the plan to the President for approval within six months of the effective date of this Order.

## 1-4. Other Responsibilities of the Federal Departments and Agencies.

- 1-401. The head of each department and agency shall designate a high level official to have the responsibility for the participation and cooperation of that department or agency in carrying out this Executive Order. This person may be the same person who is the department or agency's representative to the Committee.
- 1-402. To the extent permitted by law, each department and agency upon request by the Chairperson shall furnish information, assistance and reports and otherwise cooperate with the Chairperson and the Committee in the performance of their functions hereunder. Each department or agency shall ensure that systematic data collection processes are capable of providing the Committee current data helpful in evaluating and promoting the efforts herein described.
- 1-403. The officials designated under Section 1-401, when so requested, shall review the policies and programs of the women's business enterprise program, and shall keep the Chairperson informed of proposed budget, plans and programs

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- of their departments or agencies affecting women's business enterprise.
- 1-404. Each Federal department or agency, within constraints of law, shall continue current efforts to foster and promote women's business enterprise and to support the program herein set forth, and shall cooperate with the Chairperson and the Committee in increasing the total Federal effort.
- 1-5. Reports.
- 1-501. The Chairperson shall, promptly after the close of the fiscal year, submit to the President a full report of the activities of the Committee hereunder during the previous fiscal year. Further, the Chairperson shall, from time to time, submit to the President the Committee's recommendations for legislation or other action to promote the purposes of this Order.
- 1-502. Each Federal department and agency shall report to the Chairperson as hereinabove provided on a timely basis so that the Chairperson and the Committee can consider such reports for the Committee report to the President.
- 1-6. Definitions.
- For the purposes of this Order, the following definitions shall apply:
- 1-601. "Women-owned business" means a business that is at least 51 percent owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.
- 1-602. "Women's business enterprise" means a woman-owned business or businesses or the efforts of a woman or women to establish, maintain or develop such a business or businesses.
- 1-603. Nothing in subsections 1-601 or 1-602 of this Section 1-6 should be construed to prohibit the use of other definitions of a woman-owned business or women's business enterprise by departments and agencies of the Executive Branch where other definitions are deemed reasonable and useful for any purpose not inconsistent with the purposes of this Order. Wherever feasible, departments and agencies should use the definition of a woman-owned business in subsection 1-601 above for monitoring performance with respect to women's business enterprise in order to assure comparability of data throughout the Federal Government.
- 1-7. Construction.



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Section 662, EXHIBIT D Executive Order 11246

EQUAL EMPLOYMENT OPPORTUNITY  
EXECUTIVE ORDER 11246, AS AMENDED

Executive Order 11246 - Equal Employment Opportunity

Under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

Part I - Nondiscrimination in Government Employment

Part II - Nondiscrimination in Employment by Government Contractors and Subcontractors

Subpart A - Duties of the Secretary of Labor

SEC. 201. The Secretary of Labor shall be responsible for the administration and enforcement of Parts II and III of this Order. The Secretary shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of Parts II and III of this Order.

Subpart B - Contractors' Agreements

SEC. 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

During the performance of this contract, the contractor agrees as follows:

1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

2) The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without

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Nothing in this Order shall be construed as limiting the meaning or effect of any existing Executive Order.

THE WHITE HOUSE

JIMMY CARTER

May 18, 1979.

(Source: Amended at 24 Ill. Reg. 132.15, effective 4/1/79.)

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regard to race, color, religion, sex or national origin.

- 3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 4) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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- SPC. 203. Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.
- a) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive Order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.
- b) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe. Provided, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.
- c) The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.

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SEC. 204. The Secretary of Labor may, when he/she deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order. The Secretary of Labor may, by rule or regulation, also exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the contract. Provided, that such an exemption will not interfere with or impede the effectuation of the purposes of this Order. And provided further, that in the absence of such an exemption, all facilities shall be covered by the provisions of this Order.

Subpart C - Powers and Duties of the Secretary of Labor and the Contracting Agencies

SEC. 205. The Secretary of Labor shall be responsible for securing compliance by all Government contractors and subcontractors with this Order and any implementing rules or regulations. All contracting agencies shall comply with the terms of this Order and any implementing rules, regulations, or orders of the Secretary of Labor. Contracting agencies shall cooperate with the Secretary of Labor and shall furnish such information and assistance as the Secretary may require.

SEC. 206. The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor.

a) The Secretary of Labor may receive and investigate complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order.

SEC. 207. The Secretary of Labor shall use his/her best efforts, directly and through interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies

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whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 or other provision of Federal law.

SEC. 208. The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

a) The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection of this Section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(6) shall be made without affording the contractor an opportunity for a hearing.

Subpart D - Sanctions and Penalties

SEC. 209. In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary may:

- 1) Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.
- 2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limits of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.
- 3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.
- 4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.
- 5) After consulting with the contracting agency, direct the contracting agency to cancel, terminate, suspend or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with equal employment opportunity provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the Secretary of Labor.
- 6) Provide that any contracting agency shall refrain from entering into

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further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

- 7) Pursuant to rules and regulations prescribed by the Secretary of Labor, the Secretary shall make reasonable efforts, within a reasonable time limitation, to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under subsection (a)(5) of this Section.

SEC. 210. Whenever the Secretary of Labor makes a determination under Section 209, the Secretary shall promptly notify the appropriate agency. The agency shall take the action directed by the Secretary and shall report the results of the action it has taken to the Secretary of Labor within such time as the Secretary shall specify. If the contracting agency fails to take the action directed within thirty days, the Secretary may take the action directly.

SEC. 211. If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor.

SEC. 212. When a contract has been cancelled or terminated under Section 209(a)(5) or a contractor has been debarred from further Government contracts under Section 209(a)(6) of this Order, because of noncompliance with the contract provisions specified in Section 202 of this Order, the Secretary of Labor shall promptly notify the Comptroller General of the United States.

Subpart B - Certificates of Merit

SEC. 213. The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts. If the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this Order.

SEC. 214. Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

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SEC. 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

Part III - Nondiscrimination Provisions in Federally Assisted Construction Contracts

SEC. 301. Each executive department and agency, which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 202 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations and relevant orders of the Secretary, (2) to obtain and to furnish to the Secretary of Labor such information as the Secretary may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

SEC. 302. "Construction contract" as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

- a) The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

- b) The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with respect to whom an application for any



## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he/she becomes a recipient of such Federal assistance.

SEC. 303. The Secretary of Labor shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor and to furnish the Secretary such information and assistance as the Secretary may require in the performance of the Secretary's functions under this Order.

a) In the event an applicant fails and refuses to comply with the applicant's undertakings pursuant to this Order, the Secretary of Labor may, after consulting with the administering department or agency, take any or all of the following actions: (1) direct any administering department or agency to cancel, terminate, or suspend in whole or in part the agreement, contract or other arrangement with such applicant with respect to which the failure or refusal occurred; (2) direct any administering department or agency to refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received by the Secretary of Labor from such applicant; and (3) refer the case to the Department of Justice or the Equal Employment Opportunity Commission for appropriate law enforcement or other proceedings.

b) In no case shall action be taken with respect to an applicant pursuant to clause (1) or (2) of subsection (b) without notice and opportunity for hearing.

SEC. 304. Any executive department or agency which imposes by rule, regulation, or order requirements of nondiscrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order. Provided, that actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof and the regulations of the administering department or agency issued thereunder.

## Part IV - Miscellaneous

SEC. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order.

## ENVIRONMENTAL PROTECTION AGENCY

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[Sec. 401 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 402. The Secretary of Labor shall provide administrative support for the execution of the program known as the "Plans for Progress."

SEC. 403. Executive Orders Nos. 10590 (January 19, 1955), 10722 (August 5, 1957), 10925 (March 6, 1961), 11114 (June 22, 1963), and 11162 (July 29, 1964), are hereby superseded and the President's Committee on Equal Employment Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the Committee shall be transferred to the Office of Personnel Management and the Secretary of Labor, as appropriate.

a) Nothing in this Order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any Executive Order superseded by this Order. All rules, regulations, orders, instructions, designations, and other directives issued by the President's Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the Executive orders superseded by this Order, shall, to the extent that they are not inconsistent with this Order, remain in full force and effect unless and until revoked or superseded by appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this Order.

[Sec. 403 amended by EO 12107 of Dec. 28, 1978, 44 FR 10555, 3 CFR, 1978 Comp., p. 264]

SEC. 404. The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this Order and of the rules and regulations of the Secretary of Labor.

SEC. 405. This Order shall become effective thirty days after the date of this Order.

(Source: Added at 24 Ill. Reg. 4325, effective 1/1/79)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Related Program Provisions2) Code Citation: 89 Ill. Adm. Code 1173) Section Numbers:

117.10 Amendment

117.11 Amendment

117.60 Amendment

4) Statutory Authority: Implementing Article III, IV and VI and authorized by Section 12-13 of the Illinois Public Aid Code (305 ILCS 5/Art. III, IV and VI, and 12-13).5) Effective Date of Amendments: October 17, 20006) Does this rulemaking contain an automatic repeal date? No7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 7, 2000 (24 Ill. Reg. 9323)10) Has JCAR Issued a Statement of Objections to this Amendment? No11) Differences between proposal and final version: The following changes were made in the text of the proposed amendment:

1. In the Table of Contents, "117.15 Reinstatement Upon Agreement to Cooperate" was changed to "117.15 Reinstatement Upon Cooperation".

2. References to "protective payment plan" were changed to "ppp".

3. In Section 117.11(b), "client" was changed to "client's".

4. In Section 117.60(a)(1), "consist" was changed to "consists", a comma was added after "incarceration of the caretaker", and "ten (10) calendar days of" was changed to "10 calendar days after".

5. In Section 117.60(b)(2), a comma was added after "i.e.".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes13) Will these amendments replace an emergency amendments currently in effect?

## DEPARTMENT OF HUMAN SERVICES

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No

14) Are there any amendments pending on this Part: No15) Summary and Purpose of Rule: These amendments make changes concerning the delivery of benefits. This rulemaking deletes references limiting access to Electronic Benefits Transfer (EBT) because EBT is now statewide. To reflect current terminology, this rulemaking also changes references from AFDC to TANF.16) Information and questions regarding these adopted amendments shall be directed to:

Mrs. Susan Weir, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
3rd Floor, Harris Bldg.  
Springfield Illinois 62762  
(217) 785-9772

The full text of adopted amendments begins on the next page:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 85: SOCIAL SERVICES  
 CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
 SUBCHAPTER vv: DISTRICT, COUNTY, TOWNSHIP AND SPECIAL ACT  
 MUTUAL COMPANIES  
 SUBCHAPTER b: ASSISTANCE PROGRAMS

## PART 117

## RELATED PROGRAM PROVISIONS.

Section	
117.1	Incorporation by Reference
117.10	Payee for Financial Assistance
117.11	Issuance of Cash Assistance Benefits
117.12	Client Training for the Electronic Benefits Transfer (EBT) System
117.13	Replacement of the EBT Card
117.15	Reinstatement Upon Cooperation Agreement-Cooperate
117.20	Replacement of Missing Warrants
117.25	Withholding of Rent (Repealed)
117.30	Recovery of Interim Assistance - Aid to the Aged, Blind or Disabled and General Assistance
117.50	Funerals and Burials
117.51	Funeral Home Services
117.52	Burial Expenses
117.53	Payment to Vendor(s)
117.54	Claims for Reimbursement
117.55	Submittal of Claims
117.56	Substitute Parental Care/Supplemental Child Care - TANF AFPE, AABD and GA Family Cases
117.70	Charge for Replacement of Photo ID Cards (Repealed)
117.80	Direct Deposit of Recipients' Warrants
117.90	State Income Tax Match
117.91	New Hire Match

AUTHORITY: Implementing Articles III, IV and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV and VI, and 12-13].

SOURCE: Filed and effective December 30, 1977; amended at 2 Ill. Reg. 31, p. 68, effective August 3, 1978; amended at 3 Ill. Reg. 38, p. 258, effective September 20, 1979; amended at 3 Ill. Reg. 41, p. 167, effective October 1, 1979; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 16111, effective November 22, 1985; amended at 9 Ill. Reg. 3726, effective March 13, 1985; amended at 9 Ill. Reg. 4526, effective March 20, 1985; amended at 9 Ill. Reg. 4759, effective May 29, 1985; amended at 9 Ill. Reg. 10779, effective July 5, 1985; amended at 9 Ill. Reg. 16914, effective October 16, 1985; amended at 11 Ill. Reg. 4759, effective March 13, 1987; amended at 12 Ill. Reg. 2985, effective January 13, 1988; amended at 12 Ill. Reg. 13608, effective August 15, 1988; amended at 12 Ill. Reg. 14296, effective August 30, 1988; amended at 13

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Ill. Reg. 3036, effective March 10, 1989; amended at 14 Ill. Reg. 780, effective January 1, 1990; amended at 14 Ill. Reg. 9488, effective June 1, 1990; amended at 15 Ill. Reg. 13533, effective August 1, 1991; amended at 16 Ill. Reg. 16644, effective October 23, 1992; emergency amendment at 17 Ill. Reg. 2368, effective February 8, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 8191, effective May 24, 1993; amended at 18 Ill. Reg. 3746, effective February 28, 1994; amended at 18 Ill. Reg. 7403, effective April 29, 1994; amended at 19 Ill. Reg. 1103, effective January 26, 1995; amended at 19 Ill. Reg. 10702, effective July 7, 1995; emergency amendment at 19 Ill. Reg. 15267, effective November 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 877, effective January 1, 1996; amended at 20 Ill. Reg. 5706, effective March 30, 1996; emergency amendment at 20 Ill. Reg. 10381, effective July 23, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 395, effective December 20, 1996; amended at 21 Ill. Reg. 7759, effective June 4, 1997; emergency amendment at 21 Ill. Reg. 8677, effective July 1, 1997, for a maximum of 150 days; reclassified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15591, effective November 26, 1997; amended at 22 Ill. Reg. 16251, effective September 1, 1998; amended at 22 Ill. Reg. 18951, effective October 1, 1998; amended at 23 Ill. Reg. 5263, effective April 19, 1999; amended at 23 Ill. Reg. 11174, effective August 27, 1999; amended at 23 Ill. Reg. 12638, effective October 15, 1999; emergency amendment at 24 Ill. Reg. 6723, effective April 14, 2000, for maximum of 150 days; amended at 24 Ill. Reg. 13422, effective August 18, 2000; amended at 24 Ill. Reg. 16809, effective 11/17/2000.

## Section 117.10 Payee For Financial Assistance

a) The assistance grant shall be paid to an individual designated as the payee on the warrant or the individual authorized to use the Electronic Benefits Transfer (EBT) card or, for direct deposit accounts, the person in whose name the bank account is established.

b) The individual receiving assistance shall be designated as the payee with the following exceptions:

- 1) When a client has a judicially-appointed conservator or guardian, payment shall be made to the conservator or guardian unless other arrangements are made with the Department by the conservator or guardian.
- 2) In a situation where no specified relative is available to act as payee, another person may act as Temporary Grantee for a period not to exceed 90 days.
- 3) When a minor parent and his or her dependent child are required to live with the minor parent's parent, legal guardian, or other adult relative, or in an adult-supervised supportive living arrangement, then, where possible, the TANF cash benefit amount AFPE-grant will be paid to the adult who is responsible for supervising the minor parent. Otherwise, the minor parent will receive the TANF cash benefit amount AFPE-grant.
- 4) For AABD clients under the age of 18, the client will not be the

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payee unless the client lives independently, is capable of managing his or her own affairs, does not have a guardian, and is approved for direct payment by the local office administrator. In all other situations, a representative payee must be assigned.

- 5) For AABD clients age 18 and over, unless the client has a legally-appointed guardian or the client is determined to be physically or mentally unable to manage the grant, the client will be the payee or the client may choose to have a representative payee. If the client has a legally-appointed guardian, the legally-appointed guardian will be assigned as the payee. If the client is physically or mentally unable to manage the grant, a representative payee must be assigned.

- 6) A Protective Payment Plan (PPP) is initiated by the Department when a client has demonstrated mismanagement of funds to the detriment of the welfare of the client or family. Examples include but are not limited to:

A) A client defaults on an agreement made with a utility company and the Department in the client's behalf. In this instance, when the protective payee receives the assistance payment, payment on current and back utility charges only shall be paid by the payee, the balance of the payment shall be forwarded to the client each month.

B) For TANF APPE only - When a child in the assistance unit is determined to be neglected by the Department of Children and Family Services under Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3] and 89 Ill. Adm. Code 300.Appendix B.

C) For TANF APPE only - The case involves a record establishing that a parent or relative has been found guilty of public assistance fraud under Article VIIIA of the Illinois Public Aid Code [305 ILCS 5/Art. VIIIA].

D) Nonpayment of rent for two months shall be considered as evidence of grant mismanagement.

E) Substance abuse by the caretaker relative is identified and another family member or friend is ensuring that the family's needs are being met.

F) For TANF APPE only - the health and well-being of a child in the assistance unit is at risk, as indicated by lack of regular school attendance, as defined by the school.

G) Repeated loss of both the EBT card and Personal Identification Number (PIN) is a basis for a determination of client mismanagement and authorization of a Protective Payment Plan--(PPP).

- c) Notice shall be sent to the client before a PPP protective-payment plan is initiated. The notice shall inform the client of the right to appeal. Inclusion in a PPP protective-payment-plan. (See 89 Ill. Adm. Code 104.)

- d) The protective payee shall not receive compensation for the protective

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payee duties and must agree to assume responsibility for the expenditure of the assistance payment in behalf of the client.

e) The client's landlord or a vendor of goods or services to the client, with the exception of private welfare and social service agencies, shall not be designated as protective payee.

f) The Department may designate private welfare or social service agencies to serve as protective payees.

g) When no other suitable payee is available, the Department may appoint a member of its staff to act as protective payee. However, the staff acting as protective payee may not be:

- 1) a person determining the client's eligibility or level of assistance;
- 2) a person handling fiscal processing relating to the recipient;
- 3) an investigative staff; or
- 4) a local office administrator.

h) The need for continuation of a PPP protective-payment-plan and the performance of the protective payee shall be reviewed and evaluated by the Department as often as circumstances indicate, or, for TANF APPE cases, at least every 12 months.

(Source: Amended at 24 Ill. Reg. 38305, effective 11/17/2000.)

## Section 117.11 Issuance of Cash Assistance Benefits

a) Cash in areas where the Electronic-Benefits-Transfer-(EBT)--system--is operative--cash assistance benefits shall be issued to the payee via an electronic benefits payment file established by the Department through Electronic Benefits Transfer (EBT). The payee may access the cash benefits at any participating Point-of-Sale (POS) terminal or Automated Teller Machine (ATM). Clients may elect to use a direct deposit account in an EBT area to receive cash assistance benefits but may not elect any other delivery option.

b) In areas where the Department has a contract or contracts with specific Direct-Delivery-Agents-(DDAs)--and the BBA system is not operative--the cash assistance benefits will be delivered to the BBA for distribution to the client--if more than one BBA is available--the client may select the BBA of his or her choice--Clients may be exempted from participation in direct-delivery for specific circumstances--(For example, client is in an educational or training program or employed and hours of attendance or employment prevent the client from picking up the warrant--during normal business hours--client is permanently homebound and no proxy is available or client is in exempt status.)

b) If the client has a checking or savings account, the client may elect to have cash assistance benefits delivered via direct deposit to the financial institution where the client's client account resides.

c) In circumstances where none of the above delivery options are



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available, a warrant for the cash assistance benefits will be delivered to the client's residence or other secure address, as selected by the client.

(Source: Amended at 24 Ill. Reg. 16311.7000, effective 1/1/7000)

### Section 117.60 Substitute Parental Care/Supplemental Child Care - TANF AFDC, AABD and CA Family Cases

#### a) Substitute Parental Care/Supplemental Child Care

1) Subject to prior approval, payment shall be authorized by the Department for Substitute Parental/Supplemental Child Care when there is a need for child care because of the absence from the home or incapacity of the child's caretaker. Prior approval consists of verification of the need based on a statement from the client's physician or law enforcement officials. When prior approval cannot be obtained due to emergency hospitalization or the incarceration of the caretaker, payment shall be authorized if the request is received within ten (10) calendar days after of the caretaker's release from the hospital or incarceration.

#### 2) Payment shall not be made to:

- A) Individuals living in the home with the caretaker and child, or
- B) A responsible relative (as defined in 89 Ill. Adm. Code 103.10(b)(21)) of the caretaker or child.

#### b) Substitute Parental Care

1) Substitute parental care is care and supervision provided to children by an individual when the caretaker is required to be absent from the home for a period of 24 hours or more. Reasons for substitute parental care shall include but are not limited to hospitalization or incarceration. The substitute parent is not a day care provider.

2) The Department shall authorize payment up to \$25 per day. When substitute parental care is provided at no costs, day care is paid only during the hours of the substitute parent's absence for reasons of employment, education or training. Day Care payment rates as established by the Department of Children and Family Services are applicable for Public Aid purposes. This type of care shall be provided for no more than 30 days. However, if the client documents (i.e., through a doctor's statement or social service agency statement that care was needed for a longer period of time) payment shall be authorized.

#### c) Supplemental Child Care

1) Supplemental child care is care needed for less than 24 hours when the child's caretaker is in the home but incapacitated.

2) Supplemental child care is provided when a physician,

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psychiatrist or psychologist verifies that, due to illness or incapacity, the child's caretaker is unable to provide care and supervision of the child.

- 3) Maximum Payment Amounts and Types of Tasks Provided to the Child and/or the Caretaker  
Payment is limited to the following tasks and will be allowed up to \$3.35 per hour:

A) Meal Preparation - Maximum 1 hour per meal  
Grocery shopping; preparation of meals; service of meals (to include incapacitated caretaker and infant); and dishwashing and cleanup.

B) Personal Care - Maximum 7 hours per week  
Assistance with bathing and shampooing hair; assistance with dental care; assistance with care and diapering of infants; and assistance with dressing.

C) Laundry - Maximum 3 hours per week  
Washing clothing and linens; and folding and storing clothes and linens.

(Source: Amended at 24 Ill. Reg. 16311.7000, effective 1/1/7000)

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- 1) Heading of the Part: Standards and Licensure Requirements for Community-Integrated Living Arrangements

- 2) Code Citation: 59 Ill. Adm. Code 115

- 3) Section Numbers: Adopted Action:

115-120 Amended

115-220 Amended

115-240 Amended

115-320 Amended

- 4) Statutory Authority: Implementing the Community-Integrated Living Arrangements Licensure and Certification Act (210 ILCS 135) and the Health Care Worker Background Check Act (225 ILCS 46) and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code (405 ILCS 5/5-104) and Section 5 of the Mental Health and Developmental Disabilities Act (20 ILCS 1705/5).

- 5) Effective Date of Amendments: October 12, 2000

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this amendment contain incorporations by reference? No

- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: November 19, 1999, 23 Ill. Reg. 13738

- 10) Has JCAR Issued a Statement of Objection to this amendment? No

- 11) Differences between proposal and final version: None

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? All changes have been made.

- 13) Will this amendment replace an emergency amendment currently in effect?  
No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Amendments: This amendment adds provisions for the administration of medications by unlicensed, direct care staff and the self-administration of medications by residents in developmental disability facilities of 16 beds or less pursuant to P.A. 91-0630.

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Additionally, this amendment clarifies the definition of (substantial compliance).

- 16) Information and questions regarding this adopted amendment shall be delivered to:

Ms. Susan Weir, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
3rd Floor, Harris Bldg.  
Springfield, Illinois 62762  
(217) 785-9772

The full text of adopted amendments begins on the next page:

## DEPARTMENT OF HUMAN SERVICES

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TITLE 59: MENTAL HEALTH  
CHAPTER 1: DEPARTMENT OF HUMAN SERVICES

## PART 115

STANDARDS AND LICENSURE REQUIREMENTS FOR COMMUNITY-INTEGRATED LIVING  
ARRANGEMENTS

## SUBPART A: GENERAL PROVISIONS

## Section

115.100 Purpose

115.110 Incorporation by reference

115.120 Definitions

## SUBPART B: SERVICE REQUIREMENTS

## Section

115.200 Description

115.205 Respite services for persons with a developmental disability

115.210 Criteria for participation of individuals

115.215 Criteria for termination of services to individuals

115.220 Community support team

115.230 Interdisciplinary process

115.240 Medical services and medications

115.250 Individual rights and confidentiality

## SUBPART C: GENERAL AGENCY REQUIREMENTS

## Section

115.300 Environmental management of living arrangements

115.310 Geographic location of community-integrated living arrangements

115.320 Administrative requirements

115.321 Application for waiver of the prohibition against employment

115.325 Monitoring and evaluation

115.330 Accreditation

## SUBPART D: LICENSURE REQUIREMENTS

## Section

115.400 Applicability

115.410 License application

115.420 Application acceptance and verification

115.430 Issuing a license and period of licensure

115.440 License sanctions and revocation

115.450 Non-transferability of license

115.460 Cessation of operations

115.470 Hearings

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## SUBPART E: REIMBURSEMENT RATE COMPONENTS

## Section

115.500 Purpose

115.510 Rate components

APPENDIX A  
Specific Level of Functioning Assessment and Physical Health Inventory (Repealed)

AUTHORITY: Implementing the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135] and the Health Care Worker Background Check Act [225 ILCS 46], and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Department of Mental Health and Developmental Disabilities Act [20 ILCS 1705/5].

SOURCE: Adopted at 14 Ill. Reg. 10865, effective July 1, 1990; emergency amendment at 14 Ill. Reg. 20550, effective December 5, 1990, for a maximum of 150 days; emergency expired May 18, 1991; amended at 15 Ill. Reg. 8560, effective May 24, 1991; emergency amendment at 16 Ill. Reg. 2676, effective February 1, 1992, for a maximum of 150 days; emergency expired on June 30, 1992; amended at 17 Ill. Reg. 21434, effective November 29, 1993; amended at 21 Ill. Reg. 2205, effective February 1, 1997; amended at 21 Ill. Reg. 6085, effective May 5, 1997; amended at 21 Ill. Reg. 8332, effective June 25, 1997; recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; amended at 22 Ill. Reg. 8382, effective April 28, 1998; amended at 23 Ill. Reg. 9791, effective August 13, 1999; amended at 24 Ill. Reg. 10818, effective 10/12/2000.

## SUBPART A: GENERAL PROVISIONS

## Section 115.120 Definitions

For the purpose of this Part, the following terms are defined:

"Abuse." Any physical injury, sexual abuse or mental injury inflicted on an individual other than by accidental means. (Section 1-101.1 of the Code)

Physical injury means any direct physical mistreatment of an individual by an employee of a community agency, such as hitting, kicking, pinching, choking, shoving, pushing, biting, slapping, punching, striking with an object, burning, dragging, or cutting, with or without an injury.

Sexual abuse means any sexual penetration, molestation, or exploitation of an individual by an employee of an agency.

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Sexual penetration means any contact, however slight, between the sex organ of one person and the sex organ, mouth, or anus of another person, or any animal or object inserted into the sex organ or anus of another person for the purpose of sexual gratification or arousal of either person.

Sexual molestation means any intentional or knowing touching or fondling by one person, either directly or through clothing, of the sex organs, anus, or breast of the other person, for the purpose of sexual gratification or arousal of either person.

Sexual exploitation means the sexual use of an individual for another person's sexual gratification, arousal, advantage, or profit.

Mental injury includes verbal abuse, psychological abuse or exploitation by an employee.

Verbal abuse means the use of words by an employee toward or about and in the presence of an individual which a reasonably prudent person would believe to, or the employee knows for that particular individual will, demean, curse, intimidate, harass, cause emotional anguish or distress, threaten harm, or knowingly precipitate maladaptive behavior on the part of the individual, whether or not there is a psychological injury.

Psychological abuse means the use of signs, gestures or other actions by an employee toward or about and in the presence of an individual which a reasonably prudent person would believe to, or the employee knows for that particular individual will, demean, curse, intimidate, harass, cause emotional anguish or distress, threaten harm, or knowingly precipitate maladaptive behavior on the part of the individual.

Exploitation means any act of forcing, compelling, coercing, or enticing an individual to perform services for the advantage of another, with or without an injury.

Abuse also means any physical, sexual or mental abuse resulting in a serious injury inflicted on an individual by another individual.

"Accreditation." A process establishing that a program complies with nationally-recognized standards of care as set by one of the

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following:

1998 Hospital Accreditation Standards (Joint Commission on Accreditation of Healthcare Organizations (JCAHO), One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181, 1998):

1997-1998 Standards for Behavioral Health Care (Joint Commission on Accreditation of Healthcare Organizations (JCAHO), One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181, 1996):

1996 Comprehensive Accreditation Manual for Health Care Networks (Joint Commission on Accreditation of Healthcare Organizations (JCAHO), One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181, 1996):

Council on Accreditation 1997 Standards for Behavioral Health Care Services and Community Support and Education Services (Council on Accreditation of Services for Families and Children (COS), 120 Wall Street, 11th Floor, New York, New York 10005, 1996):

1997 Personal Outcome Measures (The Council, 100 West Road, Suite 406, Towson, Maryland 21204, 1997):

Behavioral Health Standards Manual (CARF, The Rehabilitation Commission 4991 East Grant Road, Tucson, Arizona 85711, 1998):

Standards Manual and Interpretive Guidelines for Employment and Community Support Services (CARF, The Rehabilitation Commission 4991 East Grant Road, Tucson, Arizona 85711, 1998); or

Education Standards (National Accreditation Council for Agencies Serving the Blind and Visually Handicapped, 15 West 65th Street, New York, New York, 10023, 1994).

"Agency." A community mental health or developmental services organization licensed by the Department which is a sole proprietorship, association, partnership, corporation or organization, public or private, either for profit or not for profit, which certifies community-integrated living arrangements for individuals with a mental disability. (Section 3(b) of the Community-Integrated Living Arrangements Licensure and Certification Act)

"Agency supervision." Either continuous supervision or support or intermittent supervision or support as defined in this Section.

"Array of services." A range of activities and interventions designed to provide treatment, habilitation, training, rehabilitation and other



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community integrative supports.

"Authorized agency representative." The administrative head of an agency appointed by the agency's governing body with overall responsibility for fiscal and programmatic management.

"Aversive procedures." The application, contingent on the exhibition of a specific behavior that is not adaptive, of unpleasant or painful stimuli, or stimuli that have a potentially noxious affect.

"Certification." An affirmation by an agency that programs operated under this Part meet the Part's standards and provide services to promote community-integrated living.

"Code." The Mental Health and Developmental Disabilities Code [405 ICS 5].

"Community-integrated living arrangement (CILA)." A living arrangement certified by an agency where eight or fewer individuals with a mental disability reside together in a home under the supervision of the agency and are provided with an array of services. (Section 3(d) of the Community-Integrated Living Arrangements Licensure and Certification Act)

"Community integration" or "integration into the community." On-going participation in community life including at least the following:

The amount of time spent out of the living arrangement in generic (non-disability) related activities such as church, Y.M.C.A., Y.W.C.A., education, library, clubs, shopping and amusements.

Participation in family activities and celebrations such as holidays, birthdays, reunions, communication (telephone and mail) and vacations.

"Confidentiality Act." The Mental Health and Developmental Disabilities Confidentiality Act [740 ICS 110].

"Consumer representatives." Persons chosen by individuals and representing the interests of individuals served by an agency such as family members, guardians and advocates.

"Continuous supervision or support." Direction or assistance provided to an individual under the auspices of the licensed agency. An employee or any other person compensated or in a volunteer capacity, but not the guardian of the individual, with responsibility for care of individuals served from the licensed agency, or another agency through which any portion of CILA services is being provided, must be

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physically present on-site all hours individuals are present. Continuous supervision or support may range from being in immediate line of sight to the individual receiving services, to present and accessible to the individual receiving services, depending on the individual's services plan.

"Day." A calendar day, unless otherwise indicated.

"Deemed status." If an agency has been accredited by an approved accrediting body as identified in the definition of "accreditation" in this Section, the Department shall deem the agency to be in substantial compliance with specific Sections of this Part. Deemed status, however, may be nullified by a finding by the Department that the agency is in substantial non-compliance with one or more of the designated Sections.

"Developmental disability." A disability which is attributable to mental retardation, cerebral palsy, epilepsy or autism; or to any other condition which results in an impairment similar to that caused by mental retardation and which requires services similar to those required by individuals with mental retardation. Such disability must originate before the age of 18, be expected to continue indefinitely, and constitute a substantial handicap. (Section 1-106 of the Code)

"Department." The Department of Human Services.

"Diagnosis." A category of disability stated in accordance with either the Classification in Mental Retardation (American Association on Mental Retardation, 1719 Kalorama Road, N.W., Washington, D.C. 20009 (1992)), or the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV) (American Psychiatric Association, 1994).

"Economic self-sufficiency." The managing of financial resources which are needed to satisfy the daily needs of an individual including at least involvement in commerce, such as managing money, comparative shopping, selecting clothes, informed selection of foods, diet and purchasing and negotiating.

"Employee." Any person on the agency payroll.

"Entitlements." Government-related financial benefits available to individuals who qualify on the basis of need, disability and/or income, such as Title XVIII (Medicare) (42 USCA 1395b-1 (1996)), Title XIX (Medicaid) (42 USCA 1396a (1996)) and Veteran's Administration benefits (38 USCA 521, 541, 542 (1996)).

"Equivalency." Evidence to substantiate compliance with requirements of this Part by other means than indicated in this Part.

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"Family." Anyone related by blood or marriage to the individual.

"Foster care setting." A living arrangement for recipients in residences of families unrelated to them, for the purpose of providing family care for the recipients on a full-time basis. (Community-Integrated Living Arrangements Act)

"Governing body." The policy-making authority of an agency that establishes policies concerning the agency's operation and the welfare of individuals; provides for the agency's administration by appointing an authorized agency representative to implement its policies; and exercises general oversight of the agency's operation, its fiscal affairs and programmatic content to implement the organization's mission.

"Guardian." The plenary or limited guardian or conservator of the individual appointed by the court for an individual over age 18 so long as the limited guardian's duties encompass concerns related to service requirements, or the natural or adoptive parent of a minor or a person acting as a parent of a minor.

"Habilitation." An effort directed toward the alleviation of a developmental disability or toward increasing the level of physical, mental, social or economic functioning of an individual with a developmental disability. Additionally, it may include efforts to prevent regression or decelerate loss of function. *Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, employment related services, protective services, counseling and other services provided to individuals with a developmental disability by developmental disabilities programs.* (Section 1-111 of the Code)

"Imminent risk." A preliminary determination of immediate, threatened or impending risk of illness, mental injury, or physical injury to an individual as would cause a reasonably prudent person to take immediate action and that is not immediately corrected, such as environmental or safety hazards.

"Independence in daily living." Demonstrated ability of an individual to provide for his or her own basic care without outside assistance such as:

Vocational development outside the living arrangement which enables individuals to participate in the workforce such as using on-the-job skills, riding a bus and crossing streets.

Personal care, i.e., maintaining own hygiene, personal space and

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social relationships.

Participation in citizenship activities such as awareness of community norms, voting and volunteering in community projects.

"Individual" or "individuals." A person or persons who receives or receive community-integrated living arrangement services.

"Individual integrated services plan" or "services plan." A written plan which includes an assessment of the individual's strengths and needs, a description of the array of services needed regardless of availability, objectives for each service, the role of the individual or guardian, significant others and family in the development and implementation of the plan when indicated, an anticipated timetable for the accomplishment of objectives, and the name of the person or persons responsible for the implementation of the plan.

"Informed consent." Permission freely granted by the individual or guardian based on full disclosure to the individual or guardian of the benefits and/or liabilities of participation in specific procedures and/or services, including releases of information, as part of the individual's services plan.

"Interdisciplinary process." A set of steps or systems initiated to assess the strengths and needs of an individual with a mental disability with input from the individual requesting and/or receiving services and from the disciplines providing or targeted to provide services in order to collaboratively develop and implement an individual integrated services plan, and to review and/or update the plan. Persons participating in the process shall include, at a minimum, the individual and his or her legal guardian, at the individual's family, unless a legally competent individual chooses not to have the family involved or the family refuses to be involved, a qualified mental retardation professional or qualified mental health professional and other members of the community support team.

"Intermittent supervision or support." Supervision or support provided to an individual under the auspices of a licensed agency less than 24-hours per day. When employees are not on-site, supervision or support shall be provided by means of 24-hour on-call availability and by a variety of alternatives or supports, such as non-disabled roommates, paid neighbors, non-paid family members and other formal or informal arrangements.

"Linkage." Person-to-person contact to assure that the supports and services needed by the individual and specified in the individual integrated services plan are obtained or regularly made accessible and available to an individual who chooses to not use them initially. The

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qualified mental retardation professional, qualified mental health professional or mental health professional under the supervision of the qualified mental health professional shall be responsible for assuring linkage.

"Living arrangement." An apartment, house or one or more units in a multi-unit dwelling where an individual has chosen to live or where the individual's guardian has chosen for him or her to live.

"Mental disability" or "mentally disabled." A developmental disability, a mental illness, or both.

"Mental health professional (MHP)." A mental health professional who provides services under the supervision of a qualified mental health professional, as defined below, in providing services specified in Subpart B of this Part to an individual and his or her family, as necessary. The mental health professional must possess a bachelor's degree in social work, sociology, psychology, counseling, rehabilitation, or art and recreation therapy or possess a practical nurse license, pursuant to the Nursing and Advanced Practice Nursing Act [25 ILCS 65] or have a minimum of five years of supervised experience in a mental health service.

"Mental illness." For purposes of this Part, mental illness refers to the target population of adults with serious mental illness (SMI), as established by the Department's Office of Mental Health as follows:

Individuals with serious mental illness are adults whose emotional or behavioral functioning is so impaired as to interfere with their capacity to remain in the community without supportive treatment. The mental impairment is severe and persistent and may result in a limitation of their capacities for primary activities of daily living, interpersonal relationships, homemaking, self-care, employment or recreation. This impairment may limit their ability to seek or receive local, State or federal assistance such as housing, medical and dental care, rehabilitation services, income assistance and food stamps, or protective services.

The individual must have one of the following diagnoses that meets DSM-IV criteria and that is the focus of the treatment being provided:

- Schizophrenia (295.xx)
- Schizophreniform disorder (295.4)
- Schizo-affective disorder (295.7)

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Delusional disorder (297.1)

Shared psychotic disorder (297.3)

Brief psychotic disorder (298.8)

Psychotic disorder NOS (298.9)

Bipolar disorders (296.0x, 296.4x, 296.5x, 296.6x, 296.7, 296.80, 296.89, 296.90)

Cyclothymic disorder (301.13)

Major depression (296.2x, 296.3x)

Obsessive-compulsive disorder (300.30)

Anorexia nervosa (307.1)

Bulimia nervosa (307.51)

And the individual must meet the criteria for either treatment history or functional criteria as follows:

Treatment history. (Treatment history covers the client's lifetime treatment and is restricted to treatment for the DSM-IV diagnosis specified in this definition.) To qualify under treatment history, the individual must meet at least one of the following criteria:

Continuous treatment of six months or more, including treatment during adolescence, in one, or a combination of, the following modalities: inpatient treatment, day treatment or partial hospitalization;

Six months continuous residence in residential programming (e.g., long-term care facility or assisted, supported or supervised residential programs);

Two or more admissions of any duration to inpatient treatment, day treatment, partial hospitalization or residential programming within a 12-month period;

A history of using the following outpatient services over a one-year period, either continuously or intermittently: psychotropic medication management, case management, outreach and engagement services; or

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Previous treatment in an outpatient modality, and a history of at least one mental health psychiatric hospitalization.

Functional criteria. (Functional criteria have been purposely narrowed to descriptors of the most serious levels of functional impairment and are not intended to reflect the full range of possible impairment.) To qualify under functional criteria, the individual must meet at least two of the following. The individual:

Has a serious impairment in social, occupational or school functioning;

Is unemployed or working only part-time due to mental illness and not for reasons of physical disability or some other role responsibility (e.g., student or primary caregiver for dependent family member); is employed in a sheltered setting or supportive work situation; or has markedly limited work skills;

Requires help to seek public financial assistance for out-of-hospital maintenance (e.g., Medicaid, SSI, other indicators);

Does not seek appropriate supportive community services, e.g., recreational, educational or vocational support services, without assistance;

Lacks supportive social systems in the community (e.g., no intimate or confiding relationship with anyone in his/her personal life, no close friends or group affiliations, is highly transient or has inability to co-exist within a family setting);

Requires assistance in basic life and survival skills (must be reminded to take medication, must have transportation to mental health clinic and other supportive services, needs assistance in self-care, household management, food preparation or money management, etc., is homeless or at risk of becoming homeless); or

Exhibits inappropriate or dangerous social behavior that results in demand for intervention by the mental health and/or judicial/legal system.

If the individual does not currently meet the functional criteria listed above, but is currently receiving treatment and has a history within the past five years of functional impairment

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meeting two of the functional criteria listed above that persisted for at least 12 months, and there is documentation supporting the professional judgment that regression in functional impairment would occur without continuing treatment, then the individual will be determined to have met the functional criteria.

"Mental retardation." The essential feature of mental retardation is significantly subaverage general intellectual functioning that is accompanied by significant limitations in adaptive functioning in at least two of the following skill areas: communication, self-care, home living, social/interpersonal skills, work, leisure, health, and safety. The onset must occur before age 18 years. (See DSM-IV.)

"Moral turpitude." Moral quality of being inherently base, depraved, vile or wicked.

"Natural environment." Locations and settings where an individual lives, works and socializes and carries out activities of daily living.

"Neglect."

Any failure by an agency or employee thereof to carry out required and appropriate clinical services, habilitation, or treatment as ordered by a physician or other authorized personnel that is the proximate cause of psychological harm or physical injury to an individual. Consideration shall be given in instances when the right of the individual to refuse such clinical services, treatment or habilitation is asserted; or

Any act or omission by an agency or employee thereof that endangers an individual's health or safety or fails to respond to an obvious and immediate need of an individual, regardless of whether or not there is an injury; or

Any act or omission by an agency or employee thereof that results in any documented physical injury to an individual the circumstances or nature of which would cause a reasonably prudent person to believe neglect by the agency has occurred. Consideration shall be given to whether the injury was repeated or preventable. This includes individual to individual assaults that are allegedly the result of employee or agency neglect; or

Any act or omission by an agency or employee thereof that results in an individual's absence that would cause a reasonably prudent person to believe neglect by an employee or agency has occurred; or



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Any act or omission by an agency or employee thereof that results in any individual sexual penetration, sexual molestation, or sexual exploitation where one of the participants is unwilling or unable to consent to sexual activity of which an employee or agency has or should have knowledge that would cause a reasonably prudent person to believe neglect by an employee or agency has occurred; or

Any act or omission by an agency or employee thereof that results in any exploitation of an individual by another individual of which an employee or agency has or should have knowledge that would cause a reasonably prudent person to believe neglect by an employee or agency has occurred.

"Notice of violation." A report submitted to an agency by OALC listing the agency's deficiencies with this Part noted during a survey.

"OALC." The Department's Office of Accreditation, Licensure and Certification.

"Paraprofessional." An employee or contractual worker not designated as a professional by virtue of license, certification, or education, and who assists a professional.

"Plan of correction." A written plan submitted by an agency to the Office of Accreditation, Licensure and Certification (OALC), in response to a notice of violation, which describes the steps the agency will take in order to bring a program or services into compliance, and the time-frames for completion of each step.

"Pre-admission screening (PAS) agent." Contracted community agency acting as a Department agent to provide comprehensive documentation for Illinois' pre-admission screening system and to incorporate the requirements imposed by the U.S. Health Care Financing Administration (HCFA) to support reimbursement claims under Title XIX of the Social Security Act (42 USC 1396 (1996)).

"Professional." An employee or contractual worker designated as a professional by virtue of license, certification, or education.

"Progress notes." Narrative documentation in an individual's record of service provision and its relationship to the individual integrated services plan.

"Psychotropics." Drugs used for antipsychotic, antidepressant, antianxiety and/or anti-anxiety purposes as listed in the AHS 96 Drug Information (American Society of Health-System Pharmacists, 7272 Wisconsin Avenue, Bethesda MD 20814, 1996), Drug Information for the

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Health Care Professional, USPDI, 17th edition (United States Pharmacopoeial Convention, Inc., 12601 Twinbrook Parkway, Rockville MD 20852, 1997) or the Physician's Desk Reference (PDR) (Medical Economic Company (1996), published annually).

"Qualified mental health professional (QMHP)." One of the following:

A physician licensed under the Medical Practice Act of 1987 [225 ILCS 601] to practice medicine or osteopathy with training in mental health services or one year of clinical experience, under supervision, in treating problems related to mental illness, or specialized training in the treatment of children and adolescents;

A psychiatrist (a physician licensed under the Medical Practice Act of 1987) who has successfully completed a training program in psychiatry approved by the American Medical Association or the American Osteopathic Association or other training program identified as equivalent by the Department;

A psychologist licensed under the Clinical Psychologist Licensing Act [225 ILCS 15] with specialized training in mental health services;

A social worker possessing a master's or doctoral degree in social work and licensed under the Clinical Social Work and Social Work Practice Act [225 ILCS 20] with specialized training in mental health services;

A registered nurse licensed under the Nursing and Advanced Practice Nursing Act [225 ILCS 65] with at least one year of clinical experience in a mental health service or a master's degree in psychiatric nursing;

An occupational therapist registered pursuant to the Illinois Occupational Therapy Practice Act [225 ILCS 75] with at least one year of clinical experience in a mental health setting;

An individual with a master's degree and at least one year of clinical experience in mental health services and who holds a license to practice marriage and family therapy pursuant to the Marriage and Family Therapy Licensing Act [225 ILCS 95]; or

An individual possessing a master's or doctoral degree in counseling and guidance, rehabilitation counseling, social work, vocational counseling, psychology, pastoral counseling or family therapy, or related field, who has successfully completed a practicum and/or internship which includes a minimum of 1,000

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hours, or who has one year of clinical experience under the supervision of a qualified mental health professional or who is a licensed social worker holding a master's degree with two years of experience in mental health services, or who is a permanently licensed professional counselor under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107] holding a master's degree with one year of experience in mental health services.

"Qualified mental retardation professional (QMWP)." A QMWP must:

Have at least one year of experience working directly with individuals with mental retardation or other developmental disabilities and be one of the following:

A doctor of medicine or osteopathy licensed pursuant to the Medical Practice Act of 1987;

A registered nurse licensed pursuant to the Nursing and Advanced Practice Nursing Act;

An occupational therapist or occupational therapist assistant certified by the American Occupational Therapy Association or other comparable body (Illinois Occupational Therapy Practice Act);

A physical therapist certified by the American Physical Therapy Association or other comparable body (Illinois Physical Therapy Act [225 ILCS 90]);

A physical therapist assistant registered by the American Physical Therapy Association or a graduate of a two-year college-level program approved by the American Physical Therapy Association or comparable body;

A psychologist with at least a master's degree in psychology from an accredited school (Clinical Psychologist Licensing Act);

A social worker with a bachelor's degree from a college or university or graduate degree from a school of social work accredited or approved by the Council on Social Work Education or another comparable body (the Clinical Social Work and Social Work Practice Act);

A speech-language pathologist or audiologist with a certificate of Clinical Competence in Speech-Language Pathology or Audiology granted by the American Speech

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Language Hearing Association or comparable body or meeting the education requirements for licensure and being in the process of accumulating the supervised experience required for licensure (the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]);

A professional recreation staff person with a bachelor's degree in recreation or in a specialty area such as art, dance, music or physical therapy;

A professional dietician registered by the American Dietetics Association;

A human services professional with a bachelor's degree in a human services field, including but not limited to sociology, special education, rehabilitation counseling and psychology.

"Quality assurance." A systematic and objective approach to monitoring and evaluating the appropriateness, adequacy and quality of services and supports that enable individuals with a mental illness or developmental disability to achieve defined outcomes in their lives..

"Residence." See "living arrangement."

"Seclusion." *Sequestration by placement of an individual alone in a room from which he or she has no means of leaving.* When an individual is placed in a *behavior modification program pursuant to his* or her integrated services plan, he or she may be removed from a situation that affords positive reinforcement to an area where reinforcement is not available for a reasonable period of time not to exceed 30 minutes and such restrictions shall not constitute seclusion. (Section 1-126 of the Code)

"Secretary." The Secretary of the Department of Human Services or his or her designee.

"Self-administration of medications." An individual's ability to correctly take prescribed medications independently or with prompts when the individual has a mental illness or, if the individual has a developmental disability, has been assessed and determined to be at Level 4 with the Department approved self-administration of medication tool, in accordance with §9 Ill. Adm. Code 116.

"Site." Any living arrangement under one continuous roof in which individuals receiving CILA services live.

"Skills training." Activities which focus on the development of daily

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living skills which enable individuals to achieve optimal independent functioning and economic self-sufficiency.

"Substantial compliance." An evaluation result that determines that a surveyed program or service meets the requirements set forth in this Part sufficiently to be at a level 1, 2 or 3, as described in Section 115.440, and in good standing ~~or when deficient, the program has documented a plan of correction to rectify any deficiency or has an approved equivalency or waiver for it.~~

"Survey." A process to determine the degree of compliance with this Part which an agency has maintained. This includes surveyor observation and an on-site examination of the following: policies, procedures, records of individuals, written plans, and the physical plant. Interviews of individuals and employees and observation of a sample of CILA sites are also a part of the survey.

"Tardive dyskinesia." An abnormal involuntary movement disorder associated with the long-term use of antipsychotic medications. It may be persistent or transient and is characterized by a variable mixture of facial, ocular, oral, lingual, truncal or limb movements.

"Time-out." Contingent removal from a situation in which reinforcement occurs into a situation from which reinforcement does not occur, for a reasonable period of time not to exceed 30 minutes.

"Treatment." *An effort to accomplish an improvement in the mental condition or related behavior of an individual. Treatment includes, but is not limited to, hospitalization, partial hospitalization, outpatient services, examination, diagnosis, evaluation, care, training, psychotherapy, pharmaceuticals and other services provided for individuals by mental health agencies or psychiatric hospitals.* (Section 1-128 of the Code)

"Waiver." An action by the Department in which exceptions to this Part are granted on application by an agency for a period not to exceed the duration of the current license.

(Source: Amended at 24 Ill. Reg. 16318, effective 11/1/2000)

## SUBPART B: SERVICE REQUIREMENTS

## Section 115.230 Interdisciplinary process

Agencies licensed to certify CILAs shall comprehensively address the needs of individuals through an interdisciplinary process.

- a) Through the interdisciplinary process, the CST shall be responsible

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for preparing, revising, documenting and implementing a single individual integrated services plan for each individual.

- b) The following shall be included in the interdisciplinary process:

- 1) The individual or his or her legal guardian, or both;
- 2) Members of the individual's family unless the individual is not legally disabled and does not desire the involvement of the family or the family refuses to participate;
- 3) Significant other(s) chosen by the individual;
- 4) The QMRP or the QMRP; and
- 5) Other members of the CST.

c) As needed to meet the individual's needs, the following shall be included in the interdisciplinary process:

- 1) Persons in addition to the CST who provide habilitation, treatment or training; and
- 2) Professionals who assess the individual's strengths and needs, level of functioning, presenting problem(s) and disability(s), service needs and who assist in the design and evaluation of the individual's services plan.

d) Upon the individual's entry into a CILA, the QMRP or the QMRP shall:

- 1) Document in the record those services being provided to the individual until an individual integrated services plan is developed; and
- 2) Explain all rights enumerated in Section 115.250 and document in the individual's record that this has been done.

e) The agency shall assure that each individual receives an initial assessment and reassessments that shall be documented in the individual's record and the results explained to the individual and guardian.

- 1) The assessments shall determine the individual's strengths and needs, level of functioning, the presenting problem(s) and disability(s), diagnosis and the services the individual needs.

2) Assessments shall be performed by employees trained in the use of the assessment instruments.

3) Through the selection of the assessment instruments and the interpretation of results, all assessments shall be sensitive to the individual's:

- A) Racial, ethnic and cultural background;
- B) Chronological and developmental age;
- C) Visual and auditory impairments;
- D) Language preferences; and
- E) Degree of disability.

4) Initial assessment for individuals with a mental disability shall include:

- A) A physical and dental examination, both within the past twelve months, which shall include a medical history;
- B) Previous and current adherence to medication regime and the level of ability to self-administer medications or participate in a self-administration of medication training

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**Program: the need-for-medication-training.**

- C) A psycho-social assessment including legal status, personal and family history, a history of mental disability and related services, evaluation of possible substance abuse, and resource availability such as income entitlements, health care benefits, subsidized housing and social services;
  - D) An assessment with form DMHDD-1215, "Specific Level of Functioning Assessment and Physical Health Inventory," (SIOF) for individuals with a mental illness and with the Inventory for Client and Agency Planning (ICAP) (Riverside Publishing Co., 425 Spring Lake Drive, Itasca, IL 60143, 1986) or the Scales of Independent Behavior (SIB) (DLM Teaching Resources, One DUM Park, Allen, Texas 75002, 1985) for individuals with a developmental disability;
  - E) An educational and/or vocational assessment including level of education or specialized training, previous or current employment, and acquired vocational skills, activities or interests;
  - F) A psychological and/or a psychiatric assessment; both must be conducted for individuals with both a mental illness and a developmental disability;
  - G) A communication screening in vision, hearing, speech, language and sign language; and
  - H) Others as required by the individual's disability such as physical therapy, occupational therapy and activity therapy.
- 5) Annual reassessments for individuals with a mental disability shall include:
- A) A physical and dental examination including a review of medications;
  - B) The SIOF for individuals with a mental illness or ICAP or SIB for individuals with a developmental disability;
  - C) An annual psychiatric examination for individuals with a mental illness;
  - D) Other initially-assessed areas, as necessary.
- f) Within 30 days after an individual's entry into the CILA program, a services plan shall be developed that:
- 1) Is based on the assessment results;
  - 2) Reflects the individual's or guardian's preference as indicated by a signature on the plan or staff notes indicating why there is no signature and why the individual's or guardian's preference is not reflected;
  - 3) Identifies services and supports to be provided and by whom; and
  - 4) States goals and objectives. Objectives shall:
    - A) Be measurable;
    - B) Have timeframes for completion; and
    - C) Have an employee assigned responsibility.
- 9) The individual integrated services plan shall identify the CILA site

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- chosen with the individual's and guardian's participation and shall indicate the type and the amount of supervision provided to the individual.
- h) The services plan shall address goals of independence in daily living, economic self-sufficiency and community integration.
  - i) The services plan shall include the names and titles of all employees and other persons contributing to the plan.
  - j) The services plan shall be signed by the QWRP and the QWMP and the individual or guardian.
  - k) The individual or guardian shall be given a copy of the services plan.
  - l) The services plan shall become a part of the individual's record.
  - m) At least monthly, the QWRP and QWMP shall review the services plan and shall document in the individual's record that:
    - 1) Services are being implemented;
    - 2) Services identified in the services plan continue to meet the individual's needs or require modification or change to better meet the individual's needs; and
    - 3) Actions are recommended when needed.
  - n) The CST shall review the services plan as a part of the interdisciplinary process at least annually for individuals with developmental disabilities and semi-annually for individuals with mental illness and shall note progress or regression which might require plan amendment or modification.
  - o) All services specified in the services plan, whether provided by an employee of the licensed agency, consultants, or sub-contractors, shall be provided by or under the supervision of a QWRP or a QWMP, as appropriate, based on the individual's primary disability.
  - p) Through the interdisciplinary process the CST shall be responsible for determining an individual's ability to transition from continuous supervision or support to an intermittent level of supervision or support.
- 1) If a determination is made that the individual is appropriate for a less restrictive environment, documentation shall be included in the individual's plan identifying time frames for transition.
- The individual's QWRP or QWMP shall be responsible for monitoring the individual's transitional plan and for documenting the individual's progress toward intermittent supervision and supports.
- 2) If a determination is made that an individual with a developmental disability is appropriate for intermittent supervision and supports, the PAS agency in conjunction with the provider agency must submit a completed CILA rate determination packet to the Department for development of a rate to support the intermittent supervision and supports.
  - 3) For individuals with a developmental disability, funding will remain at the individual's current level of funding for the first three months. At the end of the first three months, the QWRP or QWMP shall convene the CST to assess the individual's attainment



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of his or her goal for less restrictive supervision and supports. If the CST determines that the individual requires additional time to complete a successful transition, a request shall be made in writing to the Department for an extension not to exceed a total of six months. If the CST determines that the individual has not met, and is not likely to meet, his or her goal for less restrictive supervision and supports, the individual will continue to receive continuous supervision or support.

- q) An individual who requires continuous supervision or support indefinitely may stay alone or access the community independently under specific circumstances. The CST must determine that the individual has the ability and desire to stay alone safely for brief periods of time, or access specified locations in the community independently, or with supervision and support other than that provided by agency employees. The individual service plan must state the periods of time and restrictions on activities when at home, and locations and time frames for accessing the community. The individual will successfully complete an assessment demonstrating the skills necessary to assure his or her safety, and this must be part of the individual's record. This should occur only as part of the individual's habilitation/treatment process, and not to accommodate staffing concerns.

(Source: Amended at 24 Ill. Reg. 16318, effective 11/12/00)

## Section 115.240 Medical services and medications

When medical services and/or medications are provided, or their administration is supervised, by employees of the licensed agency, the licensed agency shall certify that they are provided or their administration is supervised in accordance with the Medical Practice Act of 1997 and the Nursing and Advanced Practice Nursing Act. The agency shall additionally document:

- A physician shall be responsible for the medical services provided to individuals, and the management of individuals' medications.
- A licensed prescriber shall prescribe and monitor all prescription medications.
- A physician shall perform an examination of the individual prior to the initiation of psychotropic medications.
- Screening for and documentation of abnormal involuntary movements, including tardive dyskinesia, in individuals receiving prescribed psychotropics shall be completed at least every six months by employees trained in performing this type of assessment.
- A physician shall review the medications prescribed and shall see the individual at least every six months, and every three months if psychotropic medications have been prescribed. Physician documentation within the individual's record shall include, but is not limited to, the following:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- Rationale for continuing current medications and/or initiating new medications; and
  - Medication side effects.
- f) A physician or registered professional nurse shall evaluate ~~review~~ ~~and approve--~~ the ability of the individual to self-administer medications. Ability to self-administer medication shall be reassessed at least quarterly for individuals with mental illness (including those dually diagnosed with a mental illness and a developmental disability) and at least annually for individuals with a developmental disability. ~~and~~ Individuals with a developmental disability (including those dually diagnosed with a mental illness and a developmental disability) shall be evaluated using Department approved screening and assessment tools, in accordance with 59 Ill. Adm. Code 116.

2) ~~The responsibility-for-scope-of-and-expected-time-frames-for-the individual's-self-medication-training-program.~~

- g) A physician will provide the written order for an individual to self-administer medications or participate in a self-administration of medication training program based on the results of the individual's evaluation. The order will become part of the individual's record.
- h) A psychiatrist will ~~shall~~ either review psychotropic medications or be available for consultation when psychotropic medications have been prescribed.

- i) All medications are labeled.

- j) Individuals who are able to independently self-administer medications will ~~self-medicate--~~ ~~shall~~ have access to their medications.

- k) When agencies supervise the self-administration of medication training programs, medications or administer the medications, medications will ~~shall~~ be secured from unauthorized access and only a physician, pharmacist, registered or licensed practical nurse or agency employee authorized to supervise the self-administration of medication training program or administer medications ~~medications--~~ ~~shall~~ will have access to medications. A physician, pharmacist or registered professional nurse will be available at all times to consult with trained, unlicensed direct care employees administering medications or supervising a self-administration of medications training program for persons with developmental disabilities.

- l) A physician or pharmacist will ~~shall~~ be available to consult, at least monthly, with the QMRP or QMRP in reference to staff's behavioral or other observations relating to the individual's level, dosage, and types of side effects from any prescribed medications.

- m) A physician or pharmacist shall make available to employees, family and individuals information on expected consequences, potential benefits and side effects of any prescribed medication.

(Source: Amended ~~at 24 Ill. Reg. 16318~~, effective 11/12/00)

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## SUBPART C: GENERAL AGENCY REQUIREMENTS

## Section 115.320 Administrative requirements

- a) Governing body
  - 1) Each agency which is owned or operated by any corporation, association, or unit of local government shall have a governing body in which is vested authority and responsibility for the organization, management, control, and operation of the agency and all programs, services, facilities and residences it administers.
- 2) Each agency shall have provisions for obtaining input from consumers and/or consumer representatives to the governing body.
- b) Staffing
  - 1) Mental health and developmental disabilities employees shall be licensed or certified as required by Illinois laws.
  - 2) When paraprofessional or untrained employees are used in direct services, they shall be supervised in the provision of direct services by professional employees.
  - 3) An agency shall not employ an individual in any capacity, until the agency has inquired of the Department of Public Health as to information in the Nurse Aid Registry concerning the individual. If the Registry has information of a substantiated finding of abuse or neglect against the individual, the agency shall not employ him or her in any capacity.
- c) General program requirements
 

Agencies funded by the Department shall meet the following general program requirements for all funded services:

  - 1) Service setting
 

Services shall be provided in the setting most appropriate to the needs of and reflecting the preferences of the individual. This may include the individual's home, the agency, or the community. All settings shall be used innovatively in order to reach the target populations.
  - 2) Recordkeeping
    - A) Cumulative case records including an individualized service plan shall be maintained for each individual.
    - B) The individualized service plan shall state the goals for each individual. The individual shall be afforded the opportunity and encouraged to participate in goal/objective selection. Goals/objectives shall include timeframes specified by the agency's professional employees, in consultation with the individual and relevant collaterals. "Individualized service plan", as used herein, refers to and is equivalent to "individual treatment plan" and "individual habilitation plan".
  - 3) Behavior management and human rights review
 

Each agency is required to establish or ensure a process for the

## DEPARTMENT OF HUMAN SERVICES

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periodic review of behavior intervention and human rights issues involved in the individual's treatment and/or habilitation. Agencies required to have behavior intervention and human rights review policies and procedures under licensure or certification standards shall continue to comply with those standards.

- 4) Abuse and neglect
 

Each agency shall have and use a process for reporting and handling instances of abuse and neglect in accordance with applicable standards, regulations and laws that shall include notification of the individual allegedly abused or neglected and his or her guardian or parent of the allegation with 24 hours after receiving the allegation.
- 5) Admission to programming
  - A) Agencies shall not discriminate in the admission to and provision of needed services to individuals on the basis of race, color, sex, religion, national origin, ancestry, or disability.
  - B) Admission policies and procedures shall be set forth in writing and be available for review.
- 6) Compliance with life safety standards and requirements
 

All program facilities shall be in compliance with applicable State licensure requirements and local ordinances with regard to fire, building, zoning, sanitation, health, and safety requirements.
- 7) Personnel requirements
  - A) A licensed physician (MD or DO) shall assume medical and legal responsibility for medical services offered in any program, including prescription of medications.
  - B) All services shall be provided by appropriately trained employees, operating under the supervision of qualified clinical professionals.
- 8) Mandated services
  - A) Mandated services shall be provided according to the requirements as stated in the Department's rules at 59 Ill. Adm. Code 125 (Recipient Discharge/Linkage/ Aftercare).
  - B) The Department shall monitor the provision of mandated follow-up monitoring services as outlined in 59 Ill. Adm. Code 125.
- 9) Utilization review
 

Utilization review is the ongoing review of services delivered, their intensity and their duration, to determine adherence to generally accepted guidelines or standards regarding the individual's assessment, eligibility for service and appropriateness of services rendered. Agencies shall engage in a utilization review process for all program services.
- 10) Visits to programs
 

The agency shall ensure that Department-authorized consumer interest groups shall be permitted, with the consent of

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individuals, to visit agencies and living arrangements owned or leased by an agency.

## d) Training

1) Direct service employees and any other compensated persons with responsibility for direct care of individuals served shall demonstrate competence in training areas listed in subsections (d)(1)(A) through (M) as a part of an orientation program. Anyone specified in this subsection (d)(1) without previous experience in direct service to individuals shall receive training and demonstrate competence prior to unsupervised responsibility for direct service unless trained employees are on site and available for on-the-job training. Direct service providers as specified above who have completed training in the below mentioned areas, and demonstrated competence as documented in their records, shall not be required to repeat that training as part of their orientation. Anyone specified in this subsection (d)(1) who has not demonstrated competence shall receive training until he or she can demonstrate competence in the following training areas, as recorded in his or her records. All direct service employees and any other compensated persons, regardless of staffing model, shall receive training and demonstrate competence as documented in employee records in the following training areas:

- A) Cardiopulmonary resuscitation (CPR), Heimlich maneuver and first aid;
- B) Concepts of treatment, habilitation and rehabilitation including behavior management, normalization, age appropriateness and psycho-social rehabilitation depending on the needs of the individuals served or to be served;
- C) Safety, fire, and disaster procedures;
- D) Abuse, neglect and unusual incident prevention, handling and reporting;
- E) Individual rights in accordance with Chapter II of the Code of Administrative Regulations;
- F) Maintaining confidentiality in accordance with the Confidentiality Act;
- G) The nature and structure of the individual integrated services plan;
- H) The type, dosage, characteristics, effects and side effects of medications prescribed for individuals. The agency shall assure that there is sufficient training in this area to provide coverage during expected and unexpected absences of caregivers by others who have been determined competent;
- I) Screening for involuntary muscular movement, which may be indicative of tardive dyskinesia;
- J) Development and implementation of an individual integrated services plan;
- K) Formal assessment instruments used and their role in the development of the services plan;

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K) Documentation and recordkeeping requirements with reference to the services plan;

L) Other training which relates specifically to the type of disability or treatment and intervention techniques being used specific to individuals living in CIADs geared toward assisting employees to execute objectives obtained in the services plans; and

M) The techniques associated with monitoring and regulating hot water temperatures prior to and during an individual's use to ensure safe hand-washing, hair-washing, bathing and showering procedures; and

N) In CIAD programs for persons with developmental disabilities, all unlicensed, direct care employees, prior to assuming responsibility for supervising the self-administration of medication training programs or for administration of medications for persons with developmental disabilities, will successfully complete a Department approved training program provided by an agency Nurse-Trainer pursuant to 59 Ill. Adm. Code 116.

1) All agency Nurse-Trainers will be registered professional nurses.

2) After completion of training specified in subsection (d)(1) of this Section, each direct service employee shall participate in ongoing employee development activities as outlined in the agency's employee development plan.

3) All training shall be documented and shall be readily available for review by Department surveyors.

4) The agency shall implement a written training plan which lists training to be offered to meet the requirements of this Part, the methods used for completion of any required training, and the process used to determine competency.

e) Volunteer training  
The agency shall provide an orientation and training program for volunteers specific to volunteer duties and shall provide supervision as necessary. Volunteers with responsibility for care of individuals served must complete and demonstrate competency in the training areas specified in subsection (d) above.

f) Quality assurance  
1) There shall be a written quality assurance plan and ongoing activities designed to review and evaluate services to individuals, operation of programs and to resolve identified problems.

2) The agency's quality assurance program shall be the basis for annually certifying to the Department that individuals are receiving appropriate community-based services consistent with their services plans, that all programs and services are

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supervised by the agency and comply with this Part.

- A) If a certified CILA does not continue to meet standards, the agency shall correct deficiencies within 30 days; or
- B) If deficiencies in a certified CILA cannot be corrected within 30 days, the agency shall withdraw certification of the CILA program in question and notify the Department. The agency shall remain responsible for those individuals who live in or lived in the affected CILA.

9) Unusual incidents

1) The agency shall have written policies and procedures for handling, investigating, reporting, tracking and analyzing unusual incidents through the agency's management structure, up to and including the authorized agency representative. The agency shall ensure that employees demonstrate their knowledge of, and follow, such policies and procedures. Unusual incidents shall include, but are not limited to, the following:

- A) Sexual assault;
  - B) Abuse or neglect;
  - C) Death;
  - D) Physical injury;
  - E) Assault;
  - F) Missing persons;
  - G) Theft; and
  - H) Criminal conduct.
- 2) Within 24 hours of occurrence the agency shall report any incident which is subject to the Criminal Code of 1961 [720 ILCS 5] to the local law enforcement agencies.
- 3) The agency shall ensure that suspected instances of abuse or neglect against individuals in programs which are licensed by the Department are reported to the Office of Inspector General (Section 6.2 of the Abused and Neglected Long Term Facility Residents Reporting Act [210 ILCS 30/6.2]).

h) Individuals' records

1) The agency shall ensure the confidentiality of individuals' records in accordance with the Act and shall ensure safekeeping of all records against loss or destruction.

2) The agency shall maintain a chronological record for each individual. Records shall be located at the program site at which individuals are being served.

- A) Each entry shall be legible, dated and authenticated by the signature and title of the person making the entry.
  - B) Corrections shall be initialed and made in such a way as to leave the original incorrect entry legible.
  - C) When symbols or abbreviations are used, the agency shall provide a legend to explain them which shall be standardized throughout the agency.
- 3) On an individual's entry into the agency, the following information shall be obtained, recorded and updated as necessary

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in the individual's record:

- A) Identifying information including name, date of birth, sex, race, social security number and legal status;
  - B) The name, address and telephone number of the legal guardian or the person to be notified in case of an emergency; individual C) The language spoken or understood by the individual including, in the case of an individual who is hearing impaired, the individual's preferred mode of communication, e.g., American sign language, signed English, aural, oral or tactile communications devices;
  - D) Prescribed medications, reactions and side effects to medications, allergies to foods, other medications and substances;
  - E) Physical and dental examinations, and medical history;
  - F) Consent to receive emergency medical services; and
  - G) Copies of the authorization for release of information.
- 4) The following shall be entered in the individual's record during the period of service:

- A) Written informed consent by the individual or guardian to participate in a CILA;
  - B) Prior service history;
  - C) Initial assessments, and individual integrated services plan, and reassessments, and individual integrated services plan as described in Section 115.230;
  - D) Documentation of approval to use special procedures and the results of their use;
  - E) Progress notes, which shall be entered chronologically and at least monthly, documenting the individual's involvement in and response to the services plan.
- 5) Electronic signature or computer-generated signature codes are acceptable as authentication of record content.

A) In order for an agency to employ electronic signatures or computer-generated signature codes for authentication purposes, the agency must adopt a policy that permits authentication by electronic or computer-generated signature.

B) At a minimum, the policy shall include adequate safeguards to ensure confidentiality of the codes, including, but not limited to, the following:

- i) Each user must be assigned a unique identifier that is generated through a confidential access code.
- ii) The agency must certify in writing that each identifier is kept strictly confidential. This certification must include a commitment to terminate a user's use of a particular identifier if it is found that the identifier has been misused. "Misused" shall mean that the user has allowed another person or persons to use his or her personally assigned



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identifier, or that the identifier has otherwise been inappropriately used.

iii) The user must certify in writing that he or she is the only person with user access to the identifier and the only person authorized to use the signature code.

iv) The agency must monitor the use of identifiers periodically and take corrective action as needed.

The process by which the agency will conduct monitoring shall be described in the policy.

C) A system employing the use of electronic signatures or computer-generated signature codes for authentication shall include a verification process to ensure that the content of authenticated entries is accurate. The verification process shall include, at a minimum, the following provisions:

i) The system shall require completion of certain designated fields for each type of document before the document may be authenticated, with no blanks, gaps or obvious contradictory statements appearing within those designated fields. The system shall also require that correction or supplementation of previously authenticated entries shall be made by additional entries, separately authenticated and made subsequent in time to the original entry.

ii) The system must make an opportunity available to the user to verify that the document is accurate and the signature has been properly recorded.

iii) The agency must periodically sample records generated by the system to verify the accuracy and integrity of the system.

D) Each report generated by a user must be separately authenticated.

i) Financial and operational requirements

Agencies licensed to provide CITAs shall comply with Department rules regulating their contractual and financial relationship with the Department.

(Source: Amended at 24 Ill. Reg. 15318, effective 11/1/2006)

## DEPARTMENT OF INSURANCE

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- 1) Heading of the Part: Summary Document and Disclaimer
- 2) Code Citation: 50 Ill. Adm. Code 3401
- 3) Section Number: Adopted Action: Illustration A Amendment
- 4) Statutory Authority: Implementing and authorized by Section 531.19 of the Illinois Insurance Code [215 ILCS 5/531.19]
- 5) Effective Date of Amendments: October 23, 2000
- 6) Does this amendment contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 21, 2000, 24 Ill. Reg. 10583

10) Has JCAR issued a Statement of Objections to this amendment? No

11) Differences between proposal and final version: None

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Illustration A contains a disclaimer which includes information for the Guaranty Association. The area code prefix in the illustration is incorrect and needs to be changed.

16) Information and questions regarding this adopted amendment shall be directed to:

Susan Anders  
Department of Insurance  
320 West Washington  
Springfield, Illinois 62767-0001  
(217) 785-8220

The full text of the adopted amendments begins on the next page:

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 50: INSURANCE

## CHAPTER 1: DEPARTMENT OF INSURANCE

## SUBCHAPTER 11: LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

## PART 3401

## SUMMARY DOCUMENT AND DISCLAIMER

## Section

3401.10 Applicability

3401.20 Purpose

3401.30 Definitions

3401.40 Delivery of Documents Required

## ILLUSTRATION A Disclaimer and Summary Document

**AUTHORITY:** Implementing and authorized by Section 531.19 of the Illinois Insurance Code [215 ILCS 5/531.19].

**SOURCE:** Adopted at 19 Ill. Reg. 9134, effective July 1, 1995; expedited correction at 19 Ill. Reg. 13090, effective July 1, 1995; amended at 24 Ill. Reg. 11834 4, effective 11/23/2001.

## DEPARTMENT OF INSURANCE

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## Section 3401. ILLUSTRATION A Disclaimer and Summary Document

## ILLINOIS

## LIFE AND HEALTH INSURANCE GUARANTY

## ASSOCIATION LAW

Residents of Illinois who purchase health insurance, life insurance, and annuities should know that the insurance companies licensed in Illinois to write these types of insurance are members of the Illinois Life and Health Insurance Guaranty Association. The purpose of this Guaranty Association is to assure that policyholders will be protected, within limits, in the unlikely event that a member insurer becomes financially unable to meet its policy obligations. If this should happen, the Guaranty Association will assess its other member insurance companies for the money to pay the covered claims of policyholders that live in Illinois (and their payees, beneficiaries, and assignees) and, in some cases, to keep coverage in force. The valuable extra protection provided by these insurers through the Guaranty Association is not unlimited, however, as noted below.

## ILLINOIS LIFE AND

## HEALTH INSURANCE GUARANTY ASSOCIATION

## DISCLAIMER

The Illinois Life and Health Insurance Guaranty Association provides coverage of claims under some types of policies if the insurer becomes impaired or insolvent. COVERAGE MAY NOT BE AVAILABLE FOR YOUR POLICY. Even if coverage is provided, there are substantial limitations and exclusions. Coverage is generally conditioned on continued residence in Illinois. Other conditions may also preclude coverage.

You should not rely on availability of coverage under the Life and Health Insurance Guaranty Association Law when selecting an insurer. Your insurer and agent are prohibited by law from using the existence of the Association or its coverage to sell you an insurance policy.

The Illinois Life and Health Insurance Guaranty Association or the Illinois Department of Insurance will respond to any questions you may have which are not answered by this document. Policyholders with additional questions may contact:

Illinois Life and Health Insurance Guaranty Association  
8420 West Bryn Mawr Avenue  
Chicago, Illinois 60631  
(773) 434-714-8050

Illinois Department of Insurance

DEPARTMENT OF INSURANCE  
NOTICE OF ADOPTED AMENDMENTS

330 West Washington Street  
4th Floor  
Springfield, Illinois 62767  
(217) 782-4515

Summary of General Purposes And  
Current Limitations of Coverage

The Illinois law that provides for this safety-net coverage is called the Illinois Life and Health Insurance Guaranty Association Law ("Law") [215 ILCS 5/531.01, et seq.]. The following contains a brief summary of the Law's coverages, exclusions, and limits. This summary does not cover all provisions, nor does it in any way change anyone's rights or obligations under the Law or the rights or obligations of the Guaranty Association. If you have obtained this document from an agent in connection with the purchase of a policy, you should be aware that its delivery to you does not guarantee that your policy is covered by the Guaranty Association.

## a) Coverage:

The Illinois Life and Health Insurance Guaranty Association provides coverage to policyholders that reside in Illinois for insurance issued by members of the Guaranty Association, including:

- 1) life insurance, health insurance, and annuity contracts;
- 2) life, health or annuity certificates under direct group policies or contracts;
- 3) unallocated annuity contracts; and
- 4) contracts to furnish health care services and subscription certificates for medical or health care services issued by certain licensed entities. The beneficiaries, payees, or assignees of such persons are also protected, even if they live in another state.

## b) Exclusions from Coverage:

- 1) The Guaranty Association does not provide coverage for:
  - A) any policy or portion of a policy for which the individual has assumed the risk;
  - B) any policy of reinsurance (unless an assumption certificate was issued);
  - C) interest rate guarantees which exceed certain statutory limitations;
  - D) certain unallocated annuity contracts issued to an employee benefit plan protected under the Pension Benefit Guaranty Corporation and any portion of a contract which is not issued to or in connection with a specific employee, union or association of natural persons benefit plan or a government lottery;

DEPARTMENT OF INSURANCE  
NOTICE OF ADOPTED AMENDMENTS

- E) any portion of a variable life insurance or variable annuity contract not guaranteed by an insurer; or
- F) any stop loss insurance.

## 2) In addition, persons are not protected by the Guaranty Association if:

- A) the Illinois Director of Insurance determines that, in the case of an insurer which is not domiciled in Illinois, the insurer's home state provides substantially similar protection to Illinois residents which will be provided in a timely manner; or
- B) the policy was issued by an organization which is not a member insurer of the Association.

## c) Limits on Amount of Coverage:

- 1) The Law also limits the amount the Illinois Life and Health Insurance Guaranty Association is obligated to pay. The Guaranty Association's liability is limited to the lesser of either:
  - A) the contractual obligations for which the insurer is liable or for which the insurer would have been liable if it were not an impaired or insolvent insurer, or
  - B) with respect to any one life, regardless of the number of policies, contracts, or certificates:
    - i) in the case of life insurance, \$300,000 in death benefits but not more than \$100,000 in net cash surrender or withdrawal values;
    - ii) in the case of health insurance, \$300,000 in health insurance benefits; and
    - iii) with respect to annuities, \$100,000 in the present value of annuity benefits, including net cash surrender or withdrawal values, and \$100,000 in the present value of annuity benefits for individuals participating in certain government retirement plans covered by an unallocated annuity contract. The limit for coverage of unallocated annuity contracts other than those issued to certain governmental retirement plans is \$5,000,000 in benefits per contract holder, regardless of the number of contracts.
- 2) However, in no event is the Guaranty Association liable for more than \$300,000 with respect to any one individual.

(Source: Amended at 24 Ill. Reg. 26344, effective 11/1/2000)

ILLINOIS COMMERCE COMMISSION  
NOTICE OF EMERGENCY RULES

12) Statement of Statewide Policy Objectives: These emergency rules neither create nor expand any state mandate on units of local government, school districts, or community college districts.

13) Information and questions regarding these rules shall be directed to:

Conrad S. Rubinkowski  
Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield IL 62701  
(217)785-3922  
(217)524-9280

The full text of the Emergency Rules appears on the next page:

ILLINOIS COMMERCE COMMISSION  
NOTICE OF EMERGENCY RULES

1) Heading of the Part: Standards of Service Applicable to Wireless 9-1-1 Emergency Systems

2) Code Citation: 83 Ill. Adm. Code 728

3) Section Numbers:  
Emergency Action:  
New Section  
728.100  
New Section  
728.105  
New Section  
728.200  
New Section  
728.205  
New Section  
728.210  
New Section  
728.300  
New Section  
728.305  
New Section  
728.310

4) Statutory Authority: Implementing and authorized by Section 15 of the Wireless Emergency Telephone Safety Act [50 ILCS 751/15].

5) Effective Date of Rules: October 25, 2000

6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: N/A

7) Date Filed with the Index Department: October 20, 2000

8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Commission's Springfield office.

9) Reason for Emergency: It is necessary to proceed with this rulemaking on an emergency basis. Section 17 of the Act establishes a wireless carrier surcharge for the purpose of funding wireless emergency services. The Department of Central Management Services (Department) has the responsibility to disburse the proceeds from the surcharge that are deposited in the Wireless Service Emergency Fund. On September 8, 2000, the Department proposed rules at 83 Ill. Adm. Code 1000, "Administration of Funds Created by the Wireless Emergency Telephone Safety Act" (24 Ill. Reg. 13463). Under these proposed rules, the Department will not disburse any funds to any entity that has not been authorized by the Commission to provide wireless 9-1-1 services. Without rules in place, the Commission has no mechanism with which to authorize wireless 9-1-1 service.

10) A Complete Description of the Subjects and Issues Involved: These rules establish a mechanism for the Commission to authorize the provision of 9-1-1 wireless services. The rules contain the requirements for obtaining authorization to operate and also the standards for operations once authorization has been granted.

11) Are there any proposed amendments to this Part pending? No



## ILLINOIS COMMERCE COMMISSION

## NOTICE OF EMERGENCY RULES

TITLE B3: PUBLIC UTILITIES  
 CHAPTER I: ILLINOIS COMMERCE COMMISSION  
 SUBCHAPTER f: TELEPHONE UTILITIES

## PART 728

## STANDARDS OF SERVICE APPLICABLE TO WIRELESS 9-1-1 EMERGENCY SYSTEMS

## SUBPART A: GENERAL PROVISIONS

Section  
 728.100 Application of Part  
 EMERGENCY  
 728.105 Definitions  
 EMERGENCY

## SUBPART B: AUTHORIZATION TO OPERATE

Section  
 728.200 General Requirements  
 EMERGENCY  
 728.205 Implementation of Wireless 9-1-1 Service  
 EMERGENCY  
 728.210 Authorization to Operate  
 EMERGENCY

## SUBPART C: Operations

Section  
 728.300 Engineering  
 EMERGENCY  
 728.305 Wireless Telecommunications Carrier Testing  
 EMERGENCY  
 728.310 Authorized Wireless 9-1-1 Answering Point Testing  
 EMERGENCY

AUTHORITY: Implementing and authorized by Section 15 of the Wireless Emergency Telephone Safety Act [50 ILCS 751/15].

SOURCE: Emergency rules adopted at 24 Ill. Reg. 16349, effective October 25, 2000, for a maximum of 150 days.

## SUBPART A: GENERAL PROVISIONS

Section 728.100 Application of Part  
 EMERGENCY

a) This Part shall apply to the emergency telephone system boards (ETSB), qualified governmental entities, public safety agencies, State of

## ILLINOIS COMMERCE COMMISSION

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Illinois governmental entities, local exchange telecommunications carriers and wireless carriers in the State of Illinois except to the extent of any exemptions conferred by law.

- b) Public safety agencies and wireless carriers are encouraged to cooperate to provide emergency access to wireless 9-1-1 and wireless E9-1-1 service. Public safety agencies and wireless carriers operating wireless 9-1-1 and wireless E9-1-1 systems require adequate funding to recover the costs of designing, purchasing, installing, testing, and operating enhanced facilities, systems, and services necessary to comply with the wireless E9-1-1 requirements mandated by the Federal Communications Commission (FCC) and to maximize the availability of wireless E9-1-1 services throughout the State of Illinois.

Section 728.105 Definitions  
 EMERGENCY

Terms used in this Part shall have the following meanings.

"Act" - the Wireless Emergency Telephone Safety Act [50 ILCS 751/15].

"Alternate Routing" - Alternate routing allows 9-1-1 calls to be alternatively rerouted to another Public Safety Answering Point (PSAP) location in the case of the overflow calls on the "B" link or PSAP failure.

"Authorized Wireless 9-1-1 Answering Point" - An emergency telephone system board or qualified governmental entity that has notified the Chief Clerk of the Illinois Commerce Commission (Commission) and the Department of State Police (Department) of its intent to be a wireless 9-1-1 answering point or in the case of the Department where it acts as the default provider in cases in which no wireline 9-1-1 exists or in which no notification of intent to provide service has been submitted.

"Authorized Wireless 9-1-1 System" - The geographic area that has been granted authorization from Commission Staff to use "9-1-1" as the primary wireless emergency telephone number.

"Automatic Location Identification" or "ALI" - In an E9-1-1 system, the automatic display at the PSAP of the caller's telephone number, the address/location of the telephone, and supplementary emergency services information.

"Automatic Number Identification" or "ANI" - Automatic display of the 9-1-1 calling party's number on the PSAP monitor.

"Basic 9-1-1" - A general term that refers to an emergency telephone system that automatically connects a person dialing the digits "9-1-1"

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF EMERGENCY RULES

to an established PSAP through normal telephone service facilities. This is a voice-only service in which there is no ANI or ALI information received.

"Call Associated Signaling" or "CAS" - A term that describes data transmission or signaling that occurs on the same channel as voice communication. In the 9-1-1 environment, CAS is associated with the transmission of the wireless caller's mobile directory number along the same channel as the caller's voice.

"CAMA trunks" - The term CAMA stands for Centralized Automatic Message Accounting which is a centralized point for the recording of switched message toll call information. The information is transmitted over trunk facilities to the recording location and contains the telephone number of the party originating the call, the start and end time of the call, and the destination of the call. CAMA trunks are engineered to provide the signaling interface to the CAMA system. For 9-1-1 systems, CAMA trunks are typically used in pax and Electronic Key applications to provide for the forwarding of ALI information to the 9-1-1 system provider.

"Cell sector" - One face of a cell antenna (typically 3-sided) that operates independently of the other sectors.

"Central office" - A switching office/facility in a telephone system that provides service to the general public, having the capability of terminating and interconnecting subscriber lines and/or trunks.

"Control office" - The control office controls the switching of ANI and selective routing information to the appropriate PSAP. The control office serves as a tandem switch in the 9-1-1 network.

"Dedicated trunking" - An arrangement in which a telephone line connection has no intermediate switching points between the originating central office and PSAP location. The facilities utilized in this arrangement may be either intra- or inter-exchange.

"Default routing" - The capability to route a 9-1-1 call to a designated (default) PSAP when the incoming 9-1-1 call cannot be selectively routed due to ANI failure, garbled digits, or other causes that prevent selective routing.

"Director" - the Director of the Department of State Police.

"Diverse routing" - The practice of routing circuits along different physical paths in order to prevent total loss of 9-1-1 service in the event of a facility failure.

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"9-1-1 selective router" - A telecommunications carrier switching office or stand alone selective routing switch equipped with enhanced 9-1-1 service capabilities. This switch serves as an 9-1-1 selective router for 9-1-1 calls from other local offices in the 9-1-1 service area.

"Emergency call" - A telephone request for emergency services that requires immediate action to prevent loss of life, reduce bodily injury, prevent or reduce loss of property, and such other situations as are determined by local custom.

"Emergency service number" or "ESN" - An ESN is a three to five digit number representing a unique combination of emergency service agencies designated to serve a specific range of addresses within a particular geographical area.

"Emergency Telephone System Board" or "ETSB" - A board appointed by the corporate authorities of any county or municipality that provides for the management and operation of a 9-1-1 system within the scope of such duties and powers as are prescribed by the Emergency Telephone System Act (ETSA) [50 ILCS 750]. The corporate authorities shall provide for the manner of appointment provided that members of the board meet the requirements of the statute.

"Enhanced 9-1-1" or "E9-1-1" - A general term that refers to an emergency telephone system with specific electronically controlled features such as ALI, ANI, or selective routing and that uses the master street address guide (MSAG) geographic files.

"Grade of service" - The probability (P), expressed as a decimal fraction, of a telephone call being blocked. P.01 is the grade of service reflecting the probability that one call out of one hundred will be blocked.

"Local exchange carrier" or "LEC" - A telecommunications carrier under the Public Utilities Act that provides competitive or non-competitive local exchange telecommunications services or any combination of the two as defined in Section 13-204 of the Public Utilities Act [220 ILCS 5/13-204], except a telecommunications carrier that is owned or operated by one or more political subdivisions, public or private institutions of higher education or municipal corporations of this State.

"Local number portability" - The ability for a customer to change its telephone company while still keeping the same telephone number.

"Master street address guide" or "MSAG" - The computerized geographical database which consists of all street and address data

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within a 9-1-1 system.

"Mobile switching office" or "MSO" - The wireless equivalent of a central office that provides switching functions for wireless calls.

"Network" - The aggregate of transmission systems and switching systems. It is an arrangement of channels, such as loops, trunks, and associated switching facilities.

"Network connections" - A voice grade communication channel directly between a subscriber and a telecommunications carrier's public switched network, without the intervention of any other telecommunications carrier's switched network, that would be required to carry the subscriber's inter-premises traffic. The connection either is capable of providing access through the public switched network to a 9-1-1 system, if one exists; or, if no system exists at the time a surcharge is imposed under Section 15.3 of the Emergency Telephone System Act (50 ILCS 750/15.3), would be capable of providing access through the public switched network to the local 9-1-1 system if one existed.

"Network segment" - A portion of the network in which there are no intermediate switching points. "A" links and "B" links are network segments.

"9-1-1 database provider" - A telecommunications carrier designated by the 9-1-1 system management under contractual agreement to provide database services for the purpose of storing and updating information required for the provisioning of E9-1-1 service. There shall be one database provider per 9-1-1 system.

"9-1-1 selective routing provider" - A telecommunications carrier designated by the 9-1-1 system management under contractual agreement to provide selective routing for the purpose of coordinating E9-1-1 services. There will be one overall selective routing provider per system.

"9-1-1 service coordinator" - A telecommunications carrier designated by the 9-1-1 system management under contractual agreement to coordinate 9-1-1 service delivery with the 9-1-1 database provider, 9-1-1 selective routing provider, and all participating telecommunications carriers for the provisioning and ongoing maintenance of 9-1-1 services.

"9-1-1 system" - A 9-1-1 service provided by a jurisdiction for a specific geographic area that has been granted an order of authority by the Commission to use "9-1-1" as the primary emergency telephone number.

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"Non-call associated signaling" or "NCAS" - A term that describes transmission or signaling that occurs on a separate channel than that which transmits a voice communication. In the 9-1-1 environment, NCAS refers to a wireless solution set that employs a signal control point within a wireless carrier network. The NCAS solution set permits PSAPs to receive ANI and AII information relating to a wireless voice call via separate data channels, thus permitting the continued use of CAMA lines.

"NPA" - Numbering plan area or area code.

"NX" - The first three digits of a local seven digit telephone number that identifies the specific telephone company's central office serving that number.

"Number pooling" - Distributing numbers in one "NX" code to more than one carrier and other strategies for optimizing the use of telephone numbers in the North American Numbering Plan (NANP) in the United States.

"On-line date" - A date that is agreed to by all parties as to when a 9-1-1 system is activated for the public.

"Order of Authority" - A formal order of the Commission that authorizes public agencies or public safety agencies to provide 9-1-1 service in a geographical area.

"Originating trunks" - Message trunks capable of providing ANI connecting the serving central office of the 9-1-1 calling party and the designated 9-1-1 tandem control office.

"PSAP" - Public Safety Answering Point, sometimes called a Center or 9-1-1 Center; the initial answering location of a 9-1-1 call.

"PSAP trunks" - The special service circuits between the 9-1-1 tandem control offices and the PSAP.

"Pseudo automatic number identification (pANI)" - A telephone number used to support routing of wireless 9-1-1 calls. It may identify a wireless cell, cell sector or PSAP to which the call should be routed. Also known as routing number.

"Public safety agency" - A functional division of a public agency that provides fire fighting, police, medical, or other emergency services. For the purpose of providing wireless service to users of 9-1-1 emergency services, as expressly provided for in this Act, the Department of State Police may be considered a public safety agency.

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"Qualified governmental entity" - A unit of local government authorized to provide 9-1-1 services pursuant to the Emergency Telephone System Act where no emergency telephone system board exists.

"Secondary PSAP" - A location where a 9-1-1 call is transferred for dispatching purposes.

"Selective routing" - A switching system which automatically routes calls to predetermined PSAPs, based on the location of the calling telephone number.

"Statewide Wireless Emergency 9-1-1 System" - All areas of the State where an emergency telephone system board or, in the absence of an emergency telephone system board, a qualified governmental entity has not declared its intention for one or more of its public safety answering points to serve as a primary wireless 9-1-1 public safety answering point for its jurisdiction. The operator of the statewide wireless emergency 9-1-1 system shall be the Department of State Police.

"System management" - The ETSB that provides for the management and operation of a 9-1-1 system within the scope of such duties and powers as are prescribed by the Emergency Telephone System Act. If no ETSB is established, then those persons given the authority to operate the 9-1-1 system by the local public agencies.

"System provider" - An entity providing 9-1-1 network or selective routing or database services.

"Tandem trunking" - An arrangement whereby an E9-1-1 call is routed from a central office to the 9-1-1 selective router to the PSAP.

"Telecommunications carrier" - Shall have the same meaning as defined in Section 13-202 of the Public Utilities Act [220 ILCS 13-202]. For the purpose of 9-1-1 service, this definition shall include telephone systems operating as mutual concerns.

"Transfer" - A feature which allows the PSAP telecommunicator to transfer E9-1-1 calls to a specific location or secondary PSAP.

"Trunk" - A communications circuit between two switching nodes (e.g., central offices, PBXs, ANI/ALI controller equipment).

"Wireless carrier" - A provider of two-way cellular, broadband (personal communications service (PCS), geographic area 800 MHz and 900 MHz Commercial Mobile Radio Service (CMRS), Wireless Communications Service (WCS), or other Commercial Mobile Radio Service (CMRS), as defined by the Federal Communications Commission, offering

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radio communications that may provide fixed, mobile, radio location, or satellite communication services to individuals or businesses within its assigned spectrum block and geographical area or that offers real-time, two-way voice service that is interconnected with the public switched network, including a reseller of such service.

"Wireless Enhanced 9-1-1" - The ability to relay the telephone number of the originator of a 9-1-1 call, when the wireless phone has a valid call back number, and the location of the cell site or base station receiving a 9-1-1 call from any mobile handset or text telephone device accessing the wireless system to the designated wireless public safety answering point through the use of automatic number identification and pseudo-automatic number identification.

"Wireless originating trunks" - Trunks that connect the wireless carriers switching office (MSO) to the wireline carriers 9-1-1 selective router.

"Wireless Phase 0" - The delivery of a wireless 9-1-1 call in which there is no ANI or ALI information received (a voice-only call).

"Wireless Phase I" - The delivery of a wireless 9-1-1 call with call-back number, when the wireless phone has a valid call back number, and identification of the cell-sector from which the call originated as required by the FCC at 47 CFR 20.18.

"Wireless Phase II" - The delivery of a wireless 9-1-1 call with Phase I requirements plus location of the caller and selective routing based upon those coordinates as required by the FCC at 47 CFR 20.18.

"Wireless public safety answering point" - The functional division of an emergency telephone system board, qualified governmental entity, or the Department of State Police as the default accepting wireless 9-1-1 calls.

"Wireless subscriber" - An individual or entity to whom a wireless service account or number has been assigned by a wireless carrier.

## SUBPART B: AUTHORIZATION TO OPERATE

Section 728.200 General Requirements  
EMERGENCY

- a) The digits "9-1-1" shall be the designated emergency telephone number within the wireless system.
- b) Authorized Wireless 9-1-1 Answering Points.
  - 1) For the purpose of providing wireless 9-1-1 emergency services, an ETSB in operation on December 22, 1999, the effective date of



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the Act, that intended to serve as a primary wireless 9-1-1 answering point was to have notified the Chief Clerk of the Commission and the Director in writing of this intention by June 29, 2000.

- 2) An ETSB or, in the absence of an ETSB, a qualified governmental entity may declare its intention for one or more of its PSAPs to serve as a primary wireless 9-1-1 answering point for its jurisdiction by notifying the Chief Clerk of the Commission and the Director in writing within 6 months after receiving its authority to operate a 9-1-1 system under the Emergency Telephone System Act (see 83 Ill. Adm. Code 725).
- c) Any ETSB or qualified governmental entity providing wireless 9-1-1 service prior to the effective date of the Wireless Emergency Telephone System Act may continue to operate upon giving notification as prescribed in subsection (b) of this Section. However, the notification to the Commission and the Director must include the date upon which it commenced handling wireless 9-1-1 service as well as file a wireless plan with the Commission pursuant to Section 728.210(c).
- d) Two or more ETSBs or qualified units of local government may, by virtue of an intergovernmental agreement, provide wireless 9-1-1 service. The intergovernmental agreement must be submitted with the systems' wireless plan to the Commission pursuant to Section 728.210(c).
- e) The Department shall be the primary wireless 9-1-1 answering point for any jurisdiction that does not notify the Chief Clerk of the Commission and the Director of its intention to provide wireless 9-1-1 service. However, the Department is not obligated to provide wireless enhanced 9-1-1 service.
  - 1) Commission 9-1-1 Staff shall coordinate with the Department to ensure that they are informed of the areas not being provided wireless 9-1-1 service by an authorized wireless answering point.
  - 2) The Department shall begin providing coverage in these areas by September 11, 2001.
  - 3) Upon a joint request from the Department and an ETSB or qualified governmental entity, the Commission may grant authority to an ETSB or qualified governmental entity to provide wireless 9-1-1 service in the areas for which the Department is currently providing wireless 9-1-1 services.
  - 4) The Department shall provide wireless 9-1-1 service as the default wireless PSAP in areas that do not currently have any wireless 9-1-1 service. In any of these areas where wireless 9-1-1 service does develop, the authorized 9-1-1 system has 6 months after receiving its authority to operate a 9-1-1 system from the Commission to send a letter of intent to handle wireless 9-1-1 calls pursuant to subsection (b). In this event, the Department and the ETSB or qualified governmental entity must follow the same procedures set forth in subsection (e)(3) in

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order for the Department to turn over the handling of wireless 9-1-1 calls for that particular area.

- f) All wireless 9-1-1 calls shall be directed to authorized wireless 9-1-1 answering points only.
- g) The Commission shall maintain a current list of all authorized wireless 9-1-1 answering points providing wireless 9-1-1 service under this Act.

**Section 728.205 Implementation of Wireless 9-1-1 Service  
EMERGENCY**

- a) ETSBs or qualified governmental entities applying to take wireless 9-1-1 calls shall begin providing the service within 6 months after receiving written notice from the Commission's 9-1-1 Program to function as an authorized wireless 9-1-1 answering point, or by September 11, 2001, whichever is later.
- b) Private companies shall no longer receive wireless 9-1-1 calls after September 11, 2001 except pursuant to a contract with an authorized wireless 9-1-1 answering point to provide such service. Private companies acting on behalf of an authorized wireless 9-1-1 answering point to provide 9-1-1 service shall comply with all standards set forth in this Part as well as the requirements set forth in 83 Ill. Adm. Code 725.
- c) Any ETSB or qualified governmental entity that has submitted a letter of intent to receive wireless 9-1-1 calls shall:
  - 1) contact all the wireless carriers operating in its jurisdiction as well as its 9-1-1 service provider before filing its plan with Commission's 9-1-1 Program in order to begin the implementation process of wireless 9-1-1 service.
  - 2) file a plan with the Commission's 9-1-1 Program, as set forth in Section 728.210(c), within 3 months of filing a letter of intent with the Commission and the Director, or by November 30, 2000, whichever is later.
  - 3) designate a project coordinator who will be responsible for the overall organization with all parties involved in the project as well as the on-going production and maintenance of the project.

**Section 728.210 Authorization to Operate  
EMERGENCY**

- a) ETSBs and qualified governmental entities that possess an order of authority to operate a 9-1-1 system in the State of Illinois and that have notified the Chief Clerk of the Commission and the Director regarding their intention of handling wireless 9-1-1 calls are the only entities that shall handle wireless 9-1-1 calls. These entities shall be known as authorized wireless 9-1-1 answering points.
- b) The Department shall be the default 9-1-1 wireless answering point in areas where no notification of intention to handle wireless 9-1-1 has

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been given by an authorized EFSB, a qualified governmental entity, a combination of qualified entities through intergovernmental agreements or by where no 9-1-1 exists.

- c) Within 3 months after notifying the Commission of the EFSB's or qualified governmental entity's intent to take wireless 9-1-1 calls, or by November 30, 2000, whichever is later, the entity shall supply Commission 9-1-1 Program Staff with a plan that sets forth, at a minimum, the following items contained in subsections (c)(1)-(6). In an effort to allow the various entities ample time to enter into the intergovernmental agreements required in Schedule E and devise a complete Network Diagram required in Schedule D by this subsection, Schedule E, and Schedule D may be omitted from the initial plan filing. However, Schedules E and D must be filed with 9-1-1 Program Staff no later than January 31, 2001. This must be marked as an addendum to the wireless plan if not filed with the initial plan on November 30, 2000. Nothing in this Section requires the Department to follow the filing requirements in this subsection.

1) Schedule A: A narrative statement setting forth:

- A) The name of the EFSB or qualified governmental entity or combination of such, requesting to be a 9-1-1 wireless PSAP, and the name, address and telephone number of a contact person for such EFSB or qualified governmental entity or combination;
- B) A detailed explanation of the jurisdiction boundaries that will be covered, specifying whether such jurisdictional boundaries differ from the wireline 9-1-1 jurisdictional boundaries;
- C) If the jurisdiction boundaries differ, an explanation of whether additional public safety agencies (fire, law enforcement, EMS) will be dispatched in response to wireless 9-1-1 calls, and how such additional public safety agencies will be dispatched, together with a list of such agencies. (see Schedule C);
- D) The name of the 9-1-1 service provider and list of wireless carriers providing service in the specified jurisdiction;
- E) The name, address and phone number of the project coordinator designated by 9-1-1 system management pursuant to Section 728.205(d)(3);
- F) Phase of wireless 9-1-1 service being provided and wireless solution(s) (NCAS, CAS, etc.) with a time-line for implementation;
- 2) Schedule B: A list of PSAPs within the 9-1-1 system that will be answering 9-1-1 wireless calls and their addresses;
- 3) Schedule C: A list of additional public safety agencies that will need to be dispatched in response to wireless 9-1-1 calls and the associated call handling agreements as prescribed in the 83 Ill. Adm. Code 725 in Exhibit 8 and 9. These agreements are subject to the annual rectification requirements in 83 Ill. Adm. Code

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- 725.220(c)(6);
- 4) Schedule D: Network diagram provided by the 9-1-1 service provider showing the overall system configuration. Changes made to a system that affect the ability of the system to route wireless 9-1-1 calls shall be reflected in annual filings required by 83 Ill. Adm. Code 725.220(c)(5);
  - 5) Schedule E: Copies of any intergovernmental agreements entered into between EFSBs or qualified units of local governments for providing wireless 9-1-1 service;
  - 6) Schedule F: Test Plan pursuant to Section 728.305(c).
  - d) The Commission's 9-1-1 Program Staff shall review the plan, and shall notify the entity in writing stating that it has the authorization to operate or continue to operate as an authorized wireless 9-1-1 answering point for the jurisdiction indicated in the plan. Commission Staff shall provide copies of the written notification to CMS for its processing requirements.
  - e) The Commission's 9-1-1 Program Staff shall forward a copy of each authorized wireless 9-1-1 answering point's entire wireless plan to the Illinois Department of Central Management Services (CMS) for its processing.
  - f) In the event that an authorized wireless 9-1-1 answering point seeks to modify its existing plan on file with the Commission's 9-1-1 Program Staff, it shall file schedules describing such modification a minimum of 10 days in advance of any changes being made.

## SUBPART C: OPERATIONS

Section 728.300 Engineering  
EMERGENCY

- a) 9-1-1 telecommunications service provides terminating only service that connects a person who has dialed the universal emergency service number 9-1-1 to a PSAP assigned to receive wireless 9-1-1 calls. Consistent with subsections (b) and (c) of this Section, 9-1-1 telecommunications service shall be provided through either dedicated direct trunking or tandem trunking.
- b) Dedicated trunking
  - 1) Dedicated trunking shall be the standard method of providing originating 9-1-1 circuits. Originating trunks shall initially be designed assuming a minimum offered load of 1.00 CCS (expected traffic load) per 1000 wireless connections to be served or a minimum of two trunks, whichever is larger. Within one month of the on-line date of the provision of wireless 9-1-1 service, each trunk group shall be re-evaluated by the wireless carrier and maintained to assure that there is less than 1% blockage of calls placed to 9-1-1 during the average busy hour of the average busy day. Each trunk group shall be sized to deliver calls to the selective routing switch being engineered in such a manner that

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will meet or exceed a P-01 grade of service or a minimum of 2 trunks. A wireless 9-1-1 originating trunk group may be designated to deliver traffic for a 9-1-1 system or multiple 9-1-1 systems depending on local call handling agreements or service requests.

2) Alternative incoming 9-1-1 trunking methods may be utilized if technology and/or local telecommunications facilities can be designed and implemented. The quantity of trunks and related switching components in the telephone network shall be engineered in accordance with 63 Ill. Adm. Code 725.500 for the interface and inter-toll network to ensure completion of calls placed to 9-1-1 during the average busy hour of the average busy day. System management shall not employ any such alternative incoming 9-1-1 trunking method without first obtaining the approval of the Commission's 9-1-1 Program.

c) Diverse routing shall be provided for all wireline trunking facilities used to transport and terminate the wireless 9-1-1 call where facilities are available.

d) Default routing shall be provided in the event that a wireless 9-1-1 call cannot be selectively routed. The level of default routing shall be negotiated between the 9-1-1 service provider, the wireless carrier and system management.

e) Each telecommunications carrier shall adopt practices to minimize the possibility of service disruption on all circuits associated with 9-1-1 service to a PSAP. Such practices shall provide for circuit guarding at all terminations with protective devices that will minimize accidental worker contact. Such practices shall also contain procedures for physical or virtual identification of all 9-1-1 circuit appearances with special warning tags and/or labels, and identification of circuits in company records.

f) Wireless carriers shall provide information to system management of changes that affect the identification and location information needed by an authorized wireless 9-1-1 answering point at least 10 business days prior to changes being made. The media used in providing this information shall be mutually agreed upon by the carrier and system management.

g) Prior to an authorized wireless 9-1-1 answering point going on-line, wireless and local exchange carriers shall obtain and retain a contact telephone number for each system management in the event of an outage or failure of the 9-1-1 system.

h) Wireless carriers shall adopt practices that enable notification of a primary point of contact with system management to begin within 15 minutes after a confirmed outage with the system, and also advise the primary point of contact as to the magnitude of the outage.

i) Wireless carriers shall adopt practices that provide for notification of a primary point of contact with system management to begin within 15 minutes after the confirmed restoration of 9-1-1 services.

j) When all 9-1-1 circuits are busy in the originating mobile switching

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office, the switching facility, where equipped to provide the function, shall route the caller to an announcement or busy tone or reorder tone. When an all-trunks busy condition occurs in an intermediate switching facility, that machine shall, where equipped, route the caller to an appropriate backup answering location, announcement, busy tone or reorder tone.

k) Wireless carriers shall provide to system management emergency phone numbers for contact on a 24 hour per day, 7 days per week basis for network and security.

Section 728.305 Wireless Telecommunications Carrier Testing  
EMERGENCY

a) No circuits associated with an authorized wireless 9-1-1 answering point shall be opened, grounded, short circuited, or tested in any manner until maintenance personnel have obtained release of the affected circuits from the appropriate PSAP personnel. Wireless telecommunications carrier maintenance personnel shall advise system management regarding the length of time that will be required to perform any work involving circuits associated with an authorized wireless 9-1-1 answering point. Wireless telecommunications carrier personnel shall notify system management and the system provider a minimum of 48 hours prior to performing mobile office switching installations, NPA additions, NXX additions, or any other scheduled event that affects 9-1-1.

b) Each wireless telecommunications carrier shall adopt mutually agreed upon testing practices in conjunction with the system management to perform, at a minimum, mobile office to PSAP 9-1-1 test calls when any of the following changes occur:

- 1) New mobile switching office installations;
- 2) NPA and NXX pANI additions;
- 3) Local number portability implementations;
- 4) Number pooling implementations; and
- 5) Any other event that affects 9-1-1.

c) Each wireless telecommunications carrier shall develop a testing plan in conjunction with the 9-1-1 system provider and system management for conclusion in the 9-1-1 systems' wireless plan that must be submitted to the Commission's 9-1-1 Program.

Section 728.310 Authorized Wireless 9-1-1 Answering Point Testing  
EMERGENCY

Ongoing testing after the authorized wireless 9-1-1 answering point is on-line shall include the following:

- a) Testing with all wireless telecommunications carriers including but not limited to the 9-1-1 database, network trunking, system overflow, system backup, default routing, and call transfers on an annual basis. The mutually agreed upon testing shall be coordinated in advance by

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system management and the participating wireless telecommunications carriers.

b) Coordinated testing with the participating wireless telecommunications carriers when any of the following occur:

- 1) New mobile switching office installations;
- 2) NPA and NXX PAWI additions;
- 3) Local number portability implementations;
- 4) Number pooling implementations; and
- 5) Any other event that affects 9-1-1.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Inspection Procedures for Type I School Buses

2) Code Citation: 92 Ill. Adm. Code 441

3) Section Numbers: Emergency Action:  
Appendix B Amendment  
Appendix H Amendment

4) Statutory Authority: Implementing and authorized by Article VIII of the Illinois Vehicle Equipment Law [625 ILCS 5/Ch. 12, Art. VIII] and the Illinois Vehicle Inspection Law [625 ILCS 5/Ch. 13]

5) Effective Date of Emergency Amendments: October 20, 2000

6) If this emergency amendment is to expire before the end of the 150 day period, please specify the date on which it is to expire: These emergency amendments will not expire prior to the end of the 150-day period.

7) Date Filed with the Index Department: October 20, 2000

8) A copy of the Emergency Amendments, including any material incorporated by reference, is on file in the Department's Division of Traffic Safety and the Office of Chief Counsel and is available for public inspection.

9) Reason for Emergency: It has come to the Department's attention, by industry request, that the Department's standards governing the front bumper required to be installed and inspected on Type I school buses (buses with a gross vehicle weight rating (GVWR) of more than 10,000 pounds) call for a front bumper that is too thick and, therefore, unsafe for some Type I school buses. While many buses covered by this Part are the standard, large-sized school buses, some covered by this Part are smaller in size. The smaller buses are commonly called "Type I-A school buses." The Type I-A school bus is one that is a conversion or that has a body that is constructed upon a van-type or cut away front-section vehicle with a left side driver's door, designed for carrying more than 10 passengers, and that has a GVWR of more than 10,000 pounds. Although Type I school buses are not required to be equipped with air bags, manufacturers are currently constructing Type I-A school buses that are equipped with driver side air bags. Since the Type I-A school bus is a derivative of the full body van that is required to meet the air bag standards of 49 CFR 571.208 (Occupant Crash Protection), altering the thickness of the bumper that is part of the occupant protection energy management system to meet the bumper requirements of this Part could affect the operation of the driver side air bag. In a crash situation, the school bus driver may be at risk if an air bag does not deploy. Therefore, the Department is revising Section 441. Appendix B(e) to provide an exception for the Type I-A school bus that allows the front bumper to meet manufacturer's specifications when the Type I-A school bus is equipped



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY AMENDMENTS

with a driver side air bag instead of meeting the requirements of this Part.

It has also come to the Department's attention that the driver's area on the Type I-A school bus is not large enough to accommodate the interior mirror currently required by Appendix H(a)(2) of this Part. Therefore, the Department will provide an exception to allow a smaller mirror in a Type I-A school bus.

Manufacturers are required to certify, pursuant to 92 Ill. Adm. Code 440.305, that a school bus conforms to all applicable State (and Federal) standards, or, 92 Ill. Adm. Code 440. This certification must be present in the form of a label affixed to the bus. This Part prescribes the requirements for the inspection of Type I school buses. Section 441-Appendix B(e) of this Part prescribes that the front bumper measure at least .177 inches (4.5 mm) thick which may affect the occupant protection energy management system that is applied to the Type I-A school bus by the bus manufacturers. Appendix H(a)(2) of this Part also prescribes a dimension of not less than 6 inches by 30 inches for an interior mirror on a Type I school bus. The driver's area on a Type I-A school bus, however, is not large enough to accommodate an interior mirror of that size. In addition, a mirror of that size may cause bodily injury to the school bus driver in the event of a collision.

School buses without the interior mirror or the front bumper specified in this Part cannot lawfully be certified that they are in compliance with the rules, and those buses will not receive a Certificate of Safety when they are inspected at Illinois Official Testing Stations. Those safety tests are performed on school buses every six months or 10,000 miles, whichever occurs first, in accordance with Section 13-109 of the Illinois Vehicle Code [625 ILCS 5/13-109]. It is unlawful for any bus to be operational without its Certificate. Any owner/operator operating a school bus with its Certificate but without an interior mirror or front bumper in compliance with this Part is unlawfully operating a school bus.

The Department believes that this emergency rulemaking is necessary to ensure that Type I-A school buses are allowed to remain operational with a smaller interior mirror and a front bumper that meet the manufacturer's specifications when the Type I-A school bus is equipped with a driver side air bag.

10) A Complete Description of the Subjects and Issues Involved: The Department is proposing to provide exceptions in Section 441-Appendix B(e) and Appendix H(a)(2) to allow front bumpers and interior mirrors, respectively, on Type I-A school buses to meet manufacturer's specifications instead of the requirements of this Part.

11) Are there any Proposed Amendments to the Part pending? No

## DEPARTMENT OF TRANSPORTATION

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12) Statement of Statewide Policy Objectives: This rulemaking will affect units of local government that own or operate Type I-A school buses.

13) Information and Questions regarding these amendments shall be directed to:

By U.S. Mail:

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212  
217/785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building  
3215 Executive Park Drive  
Commercial Vehicle Safety, 3rd Floor  
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Bear, Rules Manager  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 311  
Springfield, Illinois 62764  
217/782-3215

The full text of the Emergency Amendments begins on the next page:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY AMENDMENTS

## TITLE 92: TRANSPORTATION

## CHAPTER I: DEPARTMENT OF TRANSPORTATION

## SUBCHAPTER c: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

## PART 441

## INSPECTION PROCEDURES FOR TYPE I SCHOOL BUSES

Section	Purpose and Scope
441.10	Application
441.20	Incorporation by Reference of Federal Regulations
441.30	Standards of Construction
441.40	Definitions
APPENDIX A	Air Cleaner through Barrier, Guard
APPENDIX B	Battery or Batteries through Bumper, Front
EMERGENCY	
APPENDIX C	Bumper, Rear through Drive Shaft Guard
APPENDIX D	Electrical System through Fenders
APPENDIX E	Filter, Oil through Frame and Body
APPENDIX F	Fuel Storage and Delivery System through Horn
APPENDIX G	Instruments and Instrument Panel through Locked Compartment
APPENDIX H	Mirrors through Rub Rails
EMERGENCY	
APPENDIX I	Seat Belt, Driver's through Steps, Entrance
APPENDIX J	Stop Signal Arm Panel through Trash Container (optional)
APPENDIX K	Undercoating through Windshield Wipers
ILLUSTRATION A	Stop Arm Panels
ILLUSTRATION B	Exhaust Guidelines
ILLUSTRATION C	Brake Inspection Report
ILLUSTRATION D	Propane Decal
ILLUSTRATION E	Driver's Pre-Trip Inspection Requirements and Sample Form (Repealed)
ILLUSTRATION F	School Bus Emergency Exits

AUTHORITY: Implementing and authorized by Article VIII of the Illinois Vehicle Equipment Law [625 ILCS 5/Ch. 12, Art. VIII] and the Illinois Vehicle Inspection Law [625 ILCS 5/Ch. 13].

SOURCE: Adopted at 19 Ill. Reg. 4523, effective March 13, 1995; amended at 22 Ill. Reg. 11889, effective June 29, 1998; emergency amendment at 24 Ill. Reg. 4980, effective March 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12099, effective July 31, 2000; emergency amendment at 24 Ill. Reg. 16369, effective October 20, 2000, for a maximum of 150 days.

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## Section 441.APPENDIX B

## EMERGENCY

## Battery or Batteries through Bumper, Front

## a) BATTERY OR BATTERIES

## PROCEDURES/SPECIFICATIONS:

One or more batteries may be mounted either in engine compartment or on outside of passenger/driver area. Battery (or batteries together) in a 12 volt system shall be rated, when new, to provide the following:

Engine manufacturer's recommended Cold Cranking Current (amperes for 30 seconds) at -18 degrees C (0 degree F) or, at the purchaser's option, at -29 degrees C (-20 degrees F).

The battery(s) shall provide a Reserve Capacity (duration of 25 ampere current flow) at 27 degrees C (80 degrees F) for no less than 135 minutes.

Low rate discharge capacity of 90 ampere-hours or more (20 hour discharge test at 80 degrees F).

Exception: A bus manufactured in August 1974 or earlier may have a 70 ampere-hour battery, in a 12 volt system.

## REJECT VEHICLE IF:

Battery or batteries are not securely mounted; excessively corroded; of insufficient capacity.

## PROCEDURES/SPECIFICATIONS:

Check condition.

## REJECT VEHICLE IF:

Cables are corroded or are not securely attached.

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c) BATTERY  
CARRIERPROCEDURES/SPECIFICATIONS:

When the battery is mounted outside the engine compartment it shall be welded or bolted in a closed, weather-tight, and vented compartment that is located and arranged so as to provide for convenient routine servicing. The battery compartment door, or cover, shall be secured by a manually operated latch or other fastener. A latch or fastener must be designed in such a fashion as to keep the door closed when in the latched position. Each electrical cable connecting the battery in this carrier to the body or chassis shall be one piece between the terminal connector and the first body or chassis terminal connector.

REJECT VEHICLE IF:

Battery carrier does not meet requirements.

## d) BRAKES

PROCEDURES/SPECIFICATIONS:

*Every motor vehicle shall be equipped with two separate means of applying the brakes and they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes.* (Section 12-301(a) of the Illinois Vehicle Equipment Law)

REJECT VEHICLE IF:

Brakes do not meet requirements.

1) Backing  
PlatePROCEDURES/SPECIFICATIONS:

Check condition.

REJECT VEHICLE IF:

Backing plate is in poor condition.

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2) Drums/  
DiscsPROCEDURES/SPECIFICATIONS:

Inspect drums and/or discs for cracks or for being worn or reworked beyond the manufacturer's minimum limits.

REJECT VEHICLE IF:

Worn or reworked beyond the manufacturer's minimum limits.

3) Emergency  
/Parking  
BrakePROCEDURES/SPECIFICATIONS:

*Emergency/parking brake system must apply brakes to at least two wheels.* (Section 12-301(a) of the Illinois Vehicle Equipment Law)

## AGENCY NOTE:

Micro brakes are not considered a separate means of braking and are not acceptable.

Procedures for testing:

1) Apply operating control fully.

2) Check actuating mechanism for release.

Brake Performance Test:Using Drive-On Pad Type Tester:

1) Drive vehicle onto brake machine pads at 4-8 m.p.h.

2) Apply emergency/parking brakes to bring vehicle to a halt. Do not lock wheels.

3) Note the braking forces registered by the brake machine.

Using Roll-On Type Tester:

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- 1) Position axle with emergency brake onto roller.
- 2) Apply emergency brake but do not lock wheels.

REJECT VEHICLE IF:

Emergency/parking brake does not meet requirements.

Procedures for testing:

- 1) Not equipped with emergency/parking brakes. Operating mechanism does not hold in the applied position.
- 2) Actuating mechanism does not fully release when release control is operated properly.

Brake Performance Test:

Drive-On Tester:

Machine does not register a total braking force of at least 20% of vehicle empty weight. Braking forces at opposite wheels on same axle vary more than 20%.

Roll-On Tester:

Machine does not register a total braking force of at least 20% of vehicle empty weight. Braking forces at opposite wheels on same axle vary more than 20%.

- 4) Emergency Brake Ratchet (Pedal or Lever)

PROCEDURES/SPECIFICATIONS:

Must be in proper adjustment. If vehicle was manufactured with a warning light, it must be visible when emergency brake is activated.

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REJECT VEHICLE IF:

Emergency brake ratchet or warning light do not meet requirements.

- 5) Pedal Clearance (Service Brakes)

PROCEDURES/SPECIFICATIONS:

Minimum 1 1/2 inch clearance with pedal fully depressed.

REJECT VEHICLE IF:

Pedal clearance does not meet requirements.

- 6) Power Systems
  - A) Air

i) Air Pressure

PROCEDURES/SPECIFICATIONS:

With air system fully charged (compressor governor "cut-out") run engine at low idle. Make one full (maximum) brake application and immediately record reservoir air pressure.

Apply and release brakes until pressure indicated on the air gauge is at least 10 psi (i.e., pounds per square inch) below governor "cut-in" pressure. Run engine at high idle and determine seconds required to raise reservoir pressure from recorded pressure.

REJECT VEHICLE IF:

Time required to raise air pressure from recorded to cut-out is more than 30 seconds. Air gauge is missing or does not operate.

ii) Low Pressure Warning Device



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PROCEDURES/SPECIFICATIONS:

Complete the following steps to evaluate low pressure warning device.

- 1) Before starting the engine, apply brakes and release until low air pressure warning device functions.
- 2) Start the engine.
- 3) Apply service brakes and release until air compressor is activated.
- 4) Continue to run engine until compressor cut-out pressure is reached.
- 5) Record compressor cut-out pressure.
- 6) Shut engine off.

Determine if low pressure warning device is missing or inoperative.

If located in the driver's forward field of view, the warning device can be a visual device only. If not located in the driver's front view, the device must be both audible and visible. For buses manufactured before September 1, 1974, the device can be either audible or visible.

Record the reading found on the pressure gauge at which the low pressure warning device functions.

REJECT VEHICLE IF:

Missing or inoperative low pressure warning device. Device does not meet requirements.

Low pressure warning device does not operate at 55 psi or one half cut-out pressure, whichever is less.

B) Electric/  
Hydraulic

PROCEDURES/SPECIFICATIONS:

Turn key to "off" position. Depress service brake

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pedal. Electric hydraulic pump must come "on" (listen).

REJECT VEHICLE IF:

Electric pump does not operate properly or is absent.

C) Hydraulic

PROCEDURES/SPECIFICATIONS:

Inspect booster belt(s), supports, tubes, hoses, connections and general condition. Clean reservoir and cover as necessary and check master cylinder fluid level. Do not contaminate fluid.

Turn key to "on" position. Warning signal must come on (look/listen). Depress brake pedal lightly. Start engine. Pedal must move downslightly (feel). Warning signal must go "off" (look/listen).

REJECT VEHICLE IF:

Belt is slack or worn; tube or hose is damaged; any part leaks or is cracked; master cylinder fluid is below manufacturer's recommended capacity.

Either booster or warning signal does not operate properly.

D) Vacuum/  
Hydraulic

PROCEDURES/SPECIFICATIONS:

Inspect tank(s), chambers, hoses, tubes, connectors, clamps, and booster air cleaner.

Inspect supports and attachments.

With engine off, repeatedly apply service brakes until vacuum is depleted, with medium pressure on brake pedal, start engine; release brake and operate engine until maximum vacuum is established; stop engine;

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apply service brakes hard.

With brakes still applied, start engine; after one minute of running engine, check "Low Vacuum" indicator.

REJECT VEHICLE IF:

Any component is restricted, collapsed, scraped, cracked, loose, or broken. Booster air cleaner is clogged.

Any support or attachment is broken. Any connecting line or other component is not attached or supported so as to prevent damage from scraping or rubbing.

Foot pedal does not fall away from foot when engine is started; insufficient vacuum reserve to permit one full service brake application after engine is off without actuating "low vacuum" indicator; valve or diaphragm leaking.

## 7) Service Brakes

PROCEDURES/SPECIFICATIONS:

*Must be equipped with service brakes on all wheels.* (Section 12-301(a)(5) of the Illinois Vehicle Equipment Law)

Must be equipped with a "split system" on service brakes. (49 CFR 571.105)

Power-assisted service brakes are required. (49 CFR 571.105)

REJECT VEHICLE IF:

Service brakes do not meet requirements.

## A) Brake Inspection Report

PROCEDURES/SPECIFICATIONS:

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Verify Brake Inspection Report for following (refer to Section 441.111 Illustration C for example of form):

1) Vehicle Identification Number (VIN), make and year must correspond to the bus presented for inspection.

2) The Brake Inspection Report must indicate the date and mileage at time the brake inspection was performed. If date is more than one year prior to time of inspection or mileage has exceeded 10,000 miles, a brake inspection must be performed.

3) The form must be completed with all required information. No blank lines are acceptable.

Exception: If the bus has operated less than 10,000 miles and less than 12 months have passed since the bus was manufactured, a Brake Inspection Report is not required. Write "Less than 10,000 miles and less than one year old" in the remarks section on the Vehicle Inspection Report.

REJECT VEHICLE IF:

Absent, invalid, or incomplete Brake Inspection Report.

## B) Brake Performance Test

PROCEDURES/SPECIFICATIONS:Using Drive-On Pad Type Brake Tester:

Check vehicle's stopping ability before testing.

Drive vehicle onto brake machine pads at 4-8 m.p.h.

Apply service brakes to bring vehicle to a halt. Do not lock wheels.

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Note the braking forces registered by the brake machine.

Using Roll-On Type Tester:

When using roller-type tester each axle must be tested separately. Transmission must be in neutral when testing brakes on any drive axle.

Drive front axle onto rollers. Start roller motor. Apply service brakes but do not lock wheels.

Repeat the above steps for each axle.

The total braking force on a vehicle must be determined by adding the results of the test on each axle.

REJECT VEHICLE IF:Drive-On Tester:

Machine does not register a total braking force of at least 60% of the vehicle empty weight.

Computerized tester does not register a total braking force of at least 45% of the vehicle empty weight.

Roll-On Tester:

Braking forces at opposite wheels on same axle vary more than 20%.

Machine does not register a total braking force of at least 60% of the vehicle empty weight. Braking forces at opposite wheels on same axle vary more than 20%.

PROCEDURES/SPECIFICATION:

Either channel type, formed of rolled steel at least .177 inch (4.5 mm) (approximately 3/16 inch) thick, or approved energy absorbing type.

e) BUMPER,  
FRONT

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Buses manufactured in August 1974 or later must have 7.9 inches (200 mm) or more vertical black face.

Bumper must extend to outer edges of fenders and other front end sheet metal. Must be of strength to permit pushing vehicle of equal weight without permanent distortion.

(See CROSSING CONTROL ARM in Section 441. Appendix C for requirements.)

Exception: Buses manufactured prior to September 1974 are exempt from bumper thickness and 7.9 inch face requirement.

Exception: For buses that meet the definition of a Type I-A school bus, as defined in Section 441.40, the front bumper may meet manufacturer's specifications when the Type I-A school bus is equipped with a driver side air bag.

REJECT VEHICLE IF:

Front bumper does not meet thickness, face height and color requirements. Must be solidly attached, in good condition, free from damage and sharp edges.

(Source: Amended by emergency rulemaking at 24 Ill. Reg. 13.166, effective October 20, 2000, for a maximum of 150 days)

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Section 441. APPENDIX H Mirrors through Rub Rails  
EMERGENCY

a) MIRRORS

PROCEDURES/SPECIFICATIONS:

Every required mirror shall be of reflecting material protected from abrasion, scratching, and corrosion. Mirror shall be firmly installed on stable supports so as to give a clear, stable, reflected view.

Mirrors must meet all requirements of 49 CFR 571.111 to provide the required field of view.

Convex crossover mirrors can be combined with either the right or left side safety mirrors. Provided the convex mirror meets the field of view and size requirements established in this subsection or in 49 CFR 571.111.

REJECT VEHICLE IF:

Mirrors do not meet requirements; defective; excessively clouded; not securely attached; cracked or broken glass.

1) Exterior

A) Rear View Driving

PROCEDURES/SPECIFICATIONS:

Shall be mounted outside on the left and right sides of the bus. Must give seated driver a view to the rear along each side of the bus. Must be at least 50 square inches of usable flat rectangular reflecting surface on each side. (49 CFR 571.111)

If the rear view driving mirror does not provide the required field of view, a convex driving mirror must be installed to expand the driving view to the rear. However, the usable flat reflecting surface must be rectangular and must maintain at least 50 square inches.

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REJECT VEHICLE IF:

Rear view driving mirror does not meet requirements; defective; excessively clouded; not adjustable; not securely attached; cracked or broken glass.

PROCEDURES/SPECIFICATIONS:

An outside convex mirror, either alone or in combination with the crossover mirror system, shall give the seated driver a view of the roadway along the right side of the bus between the most forward surface of the right front tire and the rear of the rear bumper. The projected reflecting surface of this convex mirror shall be at least 40 square inches (7 1/8 inches diameter if a circle).

Extra-wide-angle convex mirror heads are permissible on right front corner only.

Exception: A right safety mirror is optional on a bus manufactured in August 1974 or earlier.

REJECT VEHICLE IF:

Right side safety mirror does not meet requirements; defective; excessively clouded; not securely attached; cracked or broken glass.

C) Left Side Safety (Optional)

PROCEDURES/SPECIFICATIONS:

A convex mirror is required if the left rear view driving mirror system does not give the seated driver a reflected view of the roadway along the left side of the bus between the front edge of the driver's seat (in most forward position) and the rear of the rear



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bumper. The convex mirror shall be installed so that either alone or in combination with the rear view driving mirror gives the seated driver the proper view.

Exception: A left safety mirror is optional on a bus with chassis manufactured in March 1977 or earlier.

REJECT VEHICLE IF:

Left side safety mirror does not meet requirements; defective; excessively clouded; not securely attached; cracked or broken glass.

## D) Crossover

PROCEDURES/SPECIFICATIONS:

An outside convex mirror shall give the seated driver a view of the front bumper and the area of roadway in front of the bus. The projected reflecting surface of this mirror shall be at least 40 square inches (7 1/8 inch diameter if a circle). (49 CFR 571.111)

Exception: If the seated driver of a forward control bus has a direct view of the front bumper and the area of roadway in front of the bus, a crossover mirror is optional.

REJECT VEHICLE IF:

Crossover mirror does not meet requirements; defective; excessively clouded; not adjustable; not securely attached; cracked or broken glass.

## 2) Interior

PROCEDURES/SPECIFICATIONS:

Clear view safety glass mirror, minimum 6 inches x 30 inches overall; framed with rounded and padded corners and edges. It shall afford good view of

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the bus interior and portions of the roadway to the rear.

Exception: All buses manufactured prior to September 1974 are exempt from padding on the mirror.

Exception: For buses that meet the definition of a Type I-A school bus, as defined in Section 431.40, the interior mirror may meet manufacturer's specifications.

REJECT VEHICLE IF:

Interior mirror does not meet requirements; defective; excessively clouded; not adjustable; not securely attached; cracked or broken glass.

PROCEDURES/SPECIFICATIONS:

*The exterior of the body, excluding the required rails, shall be painted a uniform color. National School Bus Glossy Yellow. The front and rear bumpers, required rub rails and wheels shall be black. Additional rub rails may either be painted black or yellow. Grilles and hub caps may be a bright finish (e.g., chrome, anodized aluminum, etc.). Retaining rings may be gray or aluminum. Manufacturer's name or emblem may be any color but must not interfere with required lettering, numbering or arrows. Roofs may be white. (Section 12-801 of the Illinois Vehicle Equipment Law)*

For buses manufactured on or after May 2, 1994, each opening for a required emergency exit must be outlined around its outside perimeter with a minimum 1 inch (2.54 cm.) wide yellow retroreflective tape. This yellow retroreflective tape must be on the exterior surface of the bus. Required yellow retroreflective tape can be located on the rear bumper provided the space between the top of

b) PAINT  
REQUIREMENTS

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the bumper and bottom of the door is not adequate to accommodate the tape. (49 CFR 571.217)

**Optional:** A white roof may extend only to within 6 inches above the drip rails on the sides of the body. The front and rear roof caps shall remain National School Bus Glossy Yellow.

**Optional:** Black areas around flashers are permitted, but must not interfere with "SCHOOL BUS" lettering.

**Optional:** ReflectORIZED tape is permitted provided it reflects the same color that it is applied to and is not located on any bumper unless the bus was manufactured on or after May 2, 1994 (see paragraph above).

**Exception:** *Fenders on buses manufactured prior to January 1976 may be painted black.* (Section 12-801 of the Illinois Vehicle Equipment Law)

**Exception:** Hoods may be lusterless black or lusterless school bus yellow.

REJECT VEHICLE IF:

Paint does not meet color requirements or is in poor condition (i.e., faded, peeling or rusted).

Optional black area around flashers interferes with required lettering.

Required or optional reflectORIZED tape does not meet color requirements.

## c) PROJECTIONS

## 1) Exterior

PROCEDURE/SPECIFICATIONS:

Entire rear and bumper area of bus must be nonhitchable.

"Nonhitchable" is defined as the rear of the bus being designed and maintained to prevent

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or discourage riding or grasping rear of bus so as to "hitch" rides.

REJECT VEHICLE IF:

Projections do not comply with nonhitchable requirements.

PROCEDURES/SPECIFICATIONS:

Interior shall be free of all dangerous projections.

Optional equipment (e.g., video camera) that is located in the bulkhead area of the bus and not flush with the interior walls must meet the following requirements:

- 1) Must not interfere with occupants entering or exiting the bus.
- 2) Must not be located in driver's head impact zone.
- 3) Must not obstruct required lettering.

Additional projections (e.g., external speakers, air conditioners) located within 59 inches from the floor shall be padded to prevent injury. This includes inner lining of ceiling and walls. Installation of book racks is not permissible.

**Exception:** Buses purchased prior to September 1974 may be equipped with book racks. However, if book racks are present, they shall be above side windows and shall not extend forward of the front seat or across or above the emergency door. Racks must be free of projections likely to cause injury.

**AGENCY NOTE:** See RADIO NOISE for additional requirements.

REJECT VEHICLE IF:

Optional equipment in bulkhead does not meet requirements.

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Remaining projections are not padded (e.g., external speakers). Book racks are present.

Push mounted speakers are exempt from padding requirements.

For buses purchased prior to September 1974, book racks do not meet requirements.

## d) RADIO NOISE

PROCEDURES/SPECIFICATIONS:

Radio/stereo speakers must be located at least four feet behind the rearmost position of the driver's seat. Any speaker already located in the prohibited area must be permanently deactivated.

REJECT VEHICLE IF:

After January 1, 1999, speakers are located in a prohibited area or are not deactivated.

## AGENCY NOTE:

Two-way communication radios are allowed.

## e) REFLECTORS

## 1) Front

PROCEDURES/SPECIFICATIONS:

Two yellow rigid or sheet type (tape) front reflex reflectors shall be attached securely and as far forward as practicable. (Section 12-202 of the Illinois Vehicle Equipment Law) They shall be located between 15 and 60 inches above the roadway at either fender, cowl, or body and installed so as to mark the outer edge of the maximum width of the bus. No part of the required reflecting material may be obscured by a lamp, mirror, bracket, or any other portion of the bus. No part of the required reflecting material may be more than 11.8 inches (300 mm) inboard of the outer edge of the nearest rub rail (12 inches on a bus with chassis manufactured in March 1977 or earlier). The reflector may be any shape (e.g., square, rectangle, circle, oval, etc.). A rigid type reflex reflector may be any size if permanently marked either DOT, SAE A, or SAE J 594;

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otherwise, it shall display at least seven square inches of reflecting material (about 3 inch diameter if a solid circle).

A sheet type (tape) reflex reflector may conform to the surface on which it is installed but its forward projected reflecting area shall be at least eight square inches.

REJECT VEHICLE IF:

Missing or damaged reflective material; not located or positioned as required.

PROCEDURES/SPECIFICATIONS:

One amber at or near the front and one red at or near the rear. Mounted at a height not less than 15 inches and not more than 60 inches above the surface of the road. On sides of buses 20 feet or more in length, one amber as near center as practicable must also be provided. (Section 12-202 of the Illinois Vehicle Equipment Law) Minimum three inches in diameter.

REJECT VEHICLE IF:

Missing or damaged reflective material; not located or positioned as required.

PROCEDURES/SPECIFICATIONS:

One amber at or near the front and one red at or near the rear. Mounted at a height not less than 15 inches and not more than 60 inches above the surface of the road. On sides of buses 20 feet or more in length, one amber as near center as practicable must also be provided. (Section 12-202 of the Illinois Vehicle Equipment Law) Minimum three inches in diameter.

REJECT VEHICLE IF:

Missing or damaged reflective material; not

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located or positioned as required.

- 4) Rear  
*Two red reflectors on rear body within 12 inches of lower right and lower left corners.*  
(Section 12-202 of the Illinois Vehicle Equipment Law) Minimum three inches in diameter.

REJECT VEHICLE IF:

Missing or damaged reflective material; not located or positioned as required.

## f) RUB RAILS

PROCEDURES/SPECIFICATIONS:

There shall be one rub rail located approximately at seat level which shall extend from the rear of the service entrance completely around the bus body without interruption, except at functioning doors or a rear engine compartment, to a point of curvature near the front of the body on the left side.

There shall be one rub rail on each side located approximately at the floor line which shall extend over the same longitudinal distance as the rub rail located at the seat level.

More than two rub rails may be installed on sides and rear of bus.

Rub rails of longitudinally corrugated or ribbed steel at least 3.9 inches (100 mm) wide shall be fixed on the outside of the bus.

Exceptions:

- 1) Rub rail need not extend across wheel housing.
- 2) Rub rail may terminate at the point of curvature at the right and left rear corners of the body.

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NOTICE OF EMERGENCY AMENDMENTSREJECT VEHICLE IF:

Rub rails are missing; not firmly attached; incorrect color; or incorrect number of rails.

(Source: Amended by emergency rulemaking at 24 Ill. Reg. ~~1-1-1-6~~, effective October 20, 2000, for a maximum of 150 days)

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- 1) Heading of the Part: Minimum Safety Standards for Construction of Type I School Buses

- 2) Code Citation: 92 Ill. Adm. Code 440

- 3) Section Numbers:  
440.520  
Emergency Action:  
Amendment

- 4) Statutory Authority: Implementing Article VIII of Chapter 12 and authorized by Section 12-812 of the Illinois Vehicle Code [625 ILCS 5/Ch. 12, Art. VIII].

- 5) Effective Date of Emergency Amendments: October 20, 2000

- 6) If this emergency amendment is to expire before the end of the 150 day period, please specify the date on which it is to expire: This emergency amendment will not expire prior to the end of the 150-day period.

- 7) Date Filed with the Index Department: October 20, 2000

- 8) A copy of the Emergency Amendment, including any material incorporated by reference, is on file in the Department's Division of Traffic Safety and the Office of Chief Counsel and is available for public inspection.

- 9) Reason for Emergency: It has come to the Department's attention, by industry request, that the Department's standards governing the front bumper required to be installed and inspected on Type I school buses (buses with a gross vehicle weight rating (GVWR) of more than 10,000 pounds), call for a front bumper that is too thick and, therefore, unsafe for some Type I school buses. While many buses covered by this Part are the standard, large-sized school buses, some covered by this Part are smaller in size. The smaller buses are commonly called "Type I-A school buses." The Type I-A school bus is one that is a conversion or that has a body that is constructed upon a van-type or cut away front-section vehicle with a left side driver's door, designed for carrying more than 10 passengers, and that has a GVWR of more than 10,000 pounds. Although Type I school buses are not required to be equipped with air bags, manufacturers are currently constructing Type I-A school buses that are equipped with driver side air bags. Since the Type I-A school bus is a derivative of the full body van that is required to meet the air bag standards of 49 CFR 571.208 (Occupant Crash Protection), altering the thickness of the bumper that is part of the occupant protection energy management system to meet the bumper requirements of this Part could affect the operation of the driver side air bag. In a crash situation, the school bus driver may be at risk if an air bag does not deploy. Therefore, the Department is revising Section 440.520(c) to provide an exception for the Type I-A school bus that allows the front bumper to meet manufacturer's specifications when the Type I-A school bus is equipped

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY AMENDMENTS

- with a driver side air bag instead of meeting the requirements of this Part.

Manufacturers are required to certify, pursuant to Section 440.305 of this Part, that a school bus conforms to all applicable State (and Federal) standards, or, this Part. This certification must be present in the form of a label affixed to the bus. The Department's rule on safety testing for Type I school buses, found at 92 Ill. Adm. Code 441, prescribes the requirements for the inspection of Type I school buses. Section 441.Appendix B(e) of that Part prescribes a requirement that the front bumper measure at least .177 inches (4.5 mm) in thickness. This measurement may affect the occupant protection energy management system that is applied to the Type I-A school bus by the bus manufacturers.

School buses without the front bumper specified in the rule cannot lawfully be certified that they are in compliance with the rules, and those buses will not receive a Certificate of Safety when they are inspected at Illinois Official Testing Stations. Those safety tests are performed on school buses every six months or 10,000 miles, whichever occurs first, in accordance with Section 13-109 of the Illinois Vehicle Code [625 ILCS 5/13-109]. It is unlawful for any bus to be operational without its Certificate. Any owner/operator operating a school bus with its Certificate but without a front bumper in compliance with this Part is unlawfully operating a school bus.

The Department believes that this emergency rulemaking is necessary to ensure that Type I-A school buses are allowed to remain operational with a front bumper that meets manufacturer's specifications when the Type I-A school bus is equipped with a driver side air bag.

- 10) A Complete Description of the Subjects and Issues Involved: The Department is proposing to provide an exception in Section 440.520(c) to allow front bumpers on Type I-A school buses to meet manufacturer's specifications instead of the requirements of this Part.

- 11) Are there any Proposed Amendments to the Part pending? No

- 12) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.

- 13) Information and Questions regarding these amendments shall be directed to:

By U.S. Mail:

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212



## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY AMENDMENTS

Springfield, Illinois 62794-9212  
(217) 785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building  
3215 Executive Park Drive  
Commercial Vehicle Safety, 3rd Floor  
Springfield, Illinois

JCAR requests, comments and concerns regarding this  
rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 311  
Springfield, Illinois 62764  
(217) 782-3215

The full text of the Emergency Amendments begins on the next page:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER e: TRAFFIC SAFETY (EXCEPT HAZARDOUS MATERIALS)

PART 440  
MINIMUM SAFETY STANDARDS FOR CONSTRUCTION  
OF TYPE I SCHOOL BUSES

## SUBPART A: INTRODUCTION

Section	
440.10	Order
440.20	Guidelines
440.30	Responsibilities

## SUBPART B: GENERAL

Section	
440.110	Purpose
440.120	Scope
440.130	Applicability
440.140	Effective Date
440.150	Quantified Requirements

## SUBPART C: DEFINITIONS

Section	
440.205	Dictionary Used
440.210	Federal Definitions
440.220	State Definitions

## SUBPART D: CERTIFICATION

Section	
440.305	Certification by Manufacturer
440.310	Federal Standards
440.320	State Standards

## SUBPART E: BODY REQUIREMENTS

Section	
440.405	Conformance to the Requirements
440.410	Incorporation by Reference of Federal Motor Vehicle Safety Standards
440.420	State Requirements

## SUBPART F: CHASSIS REQUIREMENTS

Section	
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## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY AMENDMENTS

440.505 Conformance to the Requirements  
 440.510 Incorporation by Reference of Federal Motor Vehicle Safety Standards  
 440.520 State Requirements

EMERGENCY

ILLUSTRATION A Hexagon Shaped Stop Signal Arm (Repealed)  
 ILLUSTRATION B Octagon Shaped Stop Signal Arm Panel  
 APPENDIX A Federal Motor Vehicle Safety Standards (FMVSS) and Related Regulations (Repealed)  
 APPENDIX B First Aid Kit Requirements (Referred to in Section 440.420(k))  
 APPENDIX C Specification Sheet Reflective Material -- Encapsulated Lens  
 (Based on FHWA Notice N 5040.17, June 15, 1976) (Repealed)

AUTHORITY: Implementing Article VIII of Chapter 12 and authorized by Section 12-812 of the Illinois Vehicle Code [625 ILCS 5/Ch. 12, Art. VIII].

SOURCE: Filed June 20, 1977; amended at 6 Ill. Reg. 7147, effective June 2, 1982; codified at 8 Ill. Reg. 15502; amended at 11 Ill. Reg. 15947, effective September 21, 1987; amended at 12 Ill. Reg. 8463, effective May 3, 1988; amended at 16 Ill. Reg. 1655, effective January 14, 1992; amended at 17 Ill. Reg. 3530, effective March 2, 1993; amended at 18 Ill. Reg. 14764, effective September 20, 1994; amended at 22 Ill. Reg. 19354, effective October 15, 1998; expedited correction at 23 Ill. Reg. 5918, effective October 15, 1998; emergency amendment at 24 Ill. Reg. 4993, effective March 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12111, effective July 31, 2000; emergency amendment at 24 Ill. Reg. 16391, effective October 20, 2000, for a maximum of 150 days.

## SUBPART F: CHASSIS REQUIREMENTS

## Section 440.520 State Requirements

EMERGENCY

*Except for mirrors, which may project 152 mm (6 inch), a school bus shall not exceed 2.625 m (8 feet) in width, 4.429 m (13 feet 6 inches) in height, nor 13.78 m (42 feet) in length. Sections 15-102 & 15-107, of the Illinois Vehicle Code (the Code) (Ill. Rev. Stat. 1991, ch. 95 1/2, pars. 15-102 and 15-107)).* Exceptions to the above are shown in Section 440.420 of this Part. Various portions of the bus chassis shall conform to the requirements set forth under the following paragraphs.

- a) Air Cleaner. Unless otherwise specified by the purchaser, the engine combustion air shall pass through a dry type air cleaner equipped with a pleated paper dry element. The dry type air cleaner shall be manufactured so as to allow use of separate pleated paper dry replacement elements. The engine combustion air cleaner shall be mounted outside the passenger compartment.
- b) Battery. See Section 440.420(b) of this Part.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY AMENDMENTS

- c) Bumper, Front. The front bumper shall be of channel type cross section, shall be formed from rolled steel at least 4.5 mm (.177 inches) thick, shall have not less than a 200 mm (7.9 inches) vertical face, and shall extend to protect the outer edges of the fenders, or the body of a forward control bus. The bumper shall be of sufficient strength to permit pushing another vehicle of equal gross weight without permanent distortion. Exception: For school buses that meet the definition of a Type 1-A school bus, as defined in Section 440.420, the bumper may meet manufacturer's specifications when the Type 1-A school bus is equipped with a driver side air bag.
- d) Clutch. A bus having a manual shift transmission shall be equipped with the type and size of clutch recommended by the incomplete vehicle manufacturer for heavy duty service between the engine and transmission installed in the bus.
- e) Color and Paint. See Section 440.420(g) of this Part.
- f) Drive Shaft. A suitable guard shall be provided for each segment of the drive shaft to prevent accident or injury if the shaft breaks or becomes disconnected.
- g) Exhaust System. The term "exhaust system" includes each manifold, gasket, connector, clamp, hanger, support, muffler, chamber, pipe, tube or other component used to conduct products of combustion from each engine exhaust port to the most remote point at which such products are discharged into the atmosphere.

1) The exhaust system shall be outside the passenger and driver compartments. It shall be securely attached to the chassis, with provisions for accommodating expansion, contraction, and engine movements. Each gas conducting component that is not of stainless steel shall be of commercial heat and corrosion resistant exhaust system material and shall be nonflexible. The complete exhaust system shall be tightly connected and without a leak or outlet other than the opening at discharge end.

- 2) The exhaust system shall be thermally insulated or shielded from a nearby pedestrian or cyclist, except at the discharge end, and shall be shielded as necessary to prevent "hitching to". For gasoline and alternate fuel (e.g., liquid petroleum gas or compressed natural gas) powered engines, any insulated wire, flammable material, brake hose, or fuel system component containing fuel that is located within 300 mm (11.8") of an exhaust system component which conducts products of combustion shall be protected by thermal insulation, heat baffle, or other shield capable of protecting from the impingement of hot exhaust gases escaping from a deteriorated exhaust system. For diesel powered engines, the above mentioned shielding is only required if the insulated wire, flammable material, brake hose or fuel system component is within 101.6 mm (4 inches) of an exhaust system component. All other shielding requirements apply to diesel powered engines. However, inside the engine compartment the chassis manufacturer's standard governing the distance, or

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY AMENDMENTS

shielding, between exhaust manifold and brake, electric, or fuel system, shall prevail.

- 3) The discharge end, or ends, of the exhaust system shall be within 25 mm (1 inches) of the side, rear, or rear corner of the bus. The discharge shall be directed so as not to significantly impinge upon any part of the bus when the bus is stationary in calm air and so as to minimize such impingement when the bus is moving. The discharge shall not be directed toward any door or other opening into the bus body. The exhaust system shall not extend beyond a side rail, nor beyond the rear bumper. It shall not provide a step or opening for a small foot to stand on or in.

A) A side discharge opening shall be located behind the driver compartment on the left and 1 m (39.4") or more from any type of service entrance on the right.

B) The distance rearward from a side discharge opening to a fuel tank or other fuel containing component, or to the transverse plane through the front edge of either a side emergency door or a side body ventilating air intake, shall be 1 m (39.4") or more. However, a fuel containing component may be closer if shielding effective in preventing heating of fuel is installed.

C) The distance between a discharge opening and a tire, or the transverse plane containing the rear vertical edge of a side emergency door, or the longitudinal plane containing any vertical edge of a rear emergency door, shall be 150 mm (5.9") or more. A discharge opening shall not be located between the planes perpendicular to an emergency door and containing the vertical edges of the closed door.

D) Each location or distance certified in relation to a door shall apply to the closed door in its normal (travel) position.

h) Frame. See Section 440.420(w)(1) of this Part.

i) Generating System. The generating system may utilize either mechanical rectification (commutator type) or diode rectification (alternator type).

1) The generator output shall be regulated automatically so as to provide for efficient battery charging without causing damaging potentials or currents in any part of the electrical system. Automatic means shall be provided to prevent battery discharge through the generator while the generator is not delivering current.

2) The generator in a nominal 12 volt system shall be able to deliver a continuous current of 60 amperes, or more, while its automatic regulating devices are connected and functioning properly and the engine is running no faster than the speed at which it delivers its maximum net torque at the engine flywheel.

3) The generator in a nominal 12 volt system shall be able to

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY AMENDMENTS

deliver a continuous current of 20 amperes, or more, while its automatic regulating devices are connected and functioning properly and the engine is running no faster than the curb idle speed recommended by the engine manufacturer.

- 4) The generator in a nominal voltage system higher or lower than 12 volts shall be able to deliver at least the same continuous power (watts) as indicated under subsection(i)(2) and Section 440.520(i)(3) of this Part, at the engine speeds indicated therein. NOTE: Where a bus must operate under adverse conditions such as low engine speeds, frequent periods of engine idle, and/or with high electrical load (frequent use of signals and interior lamps, high heater/defroster loads, etc.) for prolonged periods of time, the purchaser should specify a larger generator commensurate with operating conditions.

## j) Horn(s).

1) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonable loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn but shall not otherwise use such horn upon a highway. (Sec. 12-601(a) of the Code.)

2) At least one horn shall be installed so as to conform to subsection(j)(1). The horn(s) shall be controlled conveniently by the seated driver.

3) A siren, whistle, or bell may not be installed to attract attention of pedestrians or drivers outside the bus (Sec. 12-601(b), of the Code). This prohibition shall not be interpreted to prohibit use of such device(s) inside the bus body to provide warning(s) to the bus driver.

k) Instruments. The bus shall be equipped with at least the following nonflare illuminated instruments and gauges mounted for easy maintenance and repair and in such a manner that each is clearly visible to the seated driver:

1) Ammeter, with "charge" and "discharge" indications, provisions for 100 amperes, or more, continuous current indication, and arranged so as to remain unharmed by any ammeter current flow resulting from the installed generator operating at its maximum output;

2) Gauge, Air Pressure or Vacuum (where air pressure or vacuum is utilized either to apply or to assist in applying the service brakes);

3) Gauge, Engine Coolant Temperature;

4) Gauge, Engine Oil Pressure;

5) Gauge, Fuel;

6) Odometer (may be combined with speedometer; may indicate

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY AMENDMENTS

kilometers traveled if such indication is shown, clearly and conspicuously;

- 7) Speedometer, with both miles per hour and kilometers per hour scales that are easily readable.

- l) Lamps and Signals. See Section 440.420(r) of this Part.

- m) Oil Filter. A "full flow" type engine oil filter of approximately 1 liter (1 quart) capacity shall be installed. The purchaser may specify additional "full flow" or "by-pass" type filter(s), or oil treatment device(s).

- n) Shock Absorbers. Two front and two rear double-acting shock absorbers of adequate capacity shall be installed.

- o) Spare Tire (Optional). The spare tire and rim, if supplied, shall be of the same size designation and load rating as the largest tire and rim installed on the bus. Each spare tire and rim shall be suitably mounted in an accessible location outside the passenger compartment.

- p) Springs and Suspension. Each spring and other component in any of the suspension systems shall be capable of supporting its share of the rated gross axle weight during normal operations. Where spring failure could result in total loss of control of the bus, suitable means shall be provided to make such total loss most unlikely.

- q) Steering Mechanism. Power steering is optional. The steering mechanism(s) shall provide safe and accurate performance at maximum load and speed and shall be adjustable while installed on the completed bus. After the date of manufacture of the incomplete vehicle, the steering mechanism(s) shall not be modified unless such modification is done with the concurrence of the incomplete vehicle manufacturer and in accordance with the incomplete vehicle manufacturer's instructions.

- r) Tow Hooks, Front (Optional). A front tow hook may not extend beyond the front of the front bumper. Each front tow hook not fastened securely to the chassis frame shall be connected to the frame by suitable braces.

- s) Transmission. Unless otherwise specified by the purchaser, the transmission shall be manual-shift.

- 1) A manual-shift transmission shall provide not less than 4 forward gear ratios and 1 reverse gear ratio. A synchromesh shifting mechanism shall be provided for each forward gear ratio except for the highest ratio; i.e., "first gear" or "low gear". (Synchromesh may be specified for "first" or "reverse" gears at the purchaser's option).

- 2) An automatic transmission may be specified by the purchaser. Such transmission shall provide not less than 3 forward gear ratios and 1 reverse gear ratio.

- t) Undercoating. The entire underside of front fenders or wheel wells shall be coated with a fire-resistant undercoating material in order to seal joints and to reduce corrosion and noise. Nonmetallic components need not be coated.

- u) Weight/Power Limitation. The ratio of the bus gross vehicle weight

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY AMENDMENTS

rating (GWR) to the certified and published maximum net brake power rating of the bus engine shall not exceed 1.8 newtons per watt (300 pounds per horsepower) at the maximum engine speed (rpm) recommended by the engine manufacturer for full power operation in school bus service. NOTE: This weight/power ratio will provide for higher speeds on grades than the 400 lb/hp ratio proposed in the U.S. Government publication "House Document No. 354," August 1964, (pages 26 & 37) to assure 20 miles per hour while climbing a 3 percent grade. A purchaser who needs a bus with relatively "snappy performance" or a bus capable of maintaining relatively high speeds on relatively steep grades in rural operations should purchase a bus with a lower weight/power ratio commensurate with operating necessities.

- v) Wiring. See Section 440.420(tr) of this Part.

(Source: Amended by emergency rulemaking at 24 Ill. Reg. effective October 20, 2000, for a maximum of 150 days)

16391

DEPARTMENT OF PUBLIC AID  
NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Practice in Administrative Hearings
- 2) Code Citation: 89 Ill. Adm. Code 104
- 3) Section Numbers: 104.206  
Proposed Action:  
Amendment
- 4) Date Notice of Proposed Amendments Published in the Illinois Register:  
October 20, 2000 (24 Ill. Reg. 15407)
- 5) Reason for the Withdrawal: The Department proposed these amendments regarding instances when the recovery of money is warranted, but inadvertently omitted companion amendments to Section 104.206 that should have been included. In order to avoid confusion on the part of providers in the Department's Medical Assistance program, as well as the interested public, the amendments proposed at 24 Ill. Reg. 15407 are being withdrawn. The Department plans to combine, and submit for publication, all of the proposed changes concerning the recovery of money.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY  
STATEMENT OF OBJECTION  
TO PROPOSED RULEMAKING  
ILLINOIS GAMING BOARD

Heading of the Part: Riverboat Gambling  
Code Citation: 86 Ill Adm Code 3000  
Section Numbers: 3000.930

Date Originally Published in the Illinois Register: 5/5/00  
24 Ill Reg 6754

At its meeting on October 17, 2000, the Joint Committee on Administrative Rules objected to the rulemaking of the Illinois Gaming Board titled Riverboat Gambling (86 Ill Adm Code 3000; 24 Ill Reg 6754) because the Board increased the hours of authorized alcohol sale, during First Notice, to such an extent that the public welfare and safety could be endangered.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.



JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION  
TO PROPOSED RULEMAKING

SECOND NOTICES RECEIVED

DEPARTMENT OF REVENUE

Heading of the Part: Senior Citizens and Disabled Persons Property Tax  
Relief and Pharmaceutical Assistance Act

Code Citation: 86 Ill Adm Code 530

Section Numbers: 530.101 530.105 530.110  
530.115 530.116 530.117  
530.120 530.125 530.130  
530.135 530.140 530.145  
530.150 530.155 530.160  
530.165

Date Originally Published in the Illinois Register: 8/11/00  
24 Ill Reg 11792

At its meeting on October 17, 2000, the Joint Committee on Administrative Rules objected to the rulemaking of the Department of Revenue titled Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act (86 Ill Adm Code 530; 24 Ill Reg 11792) because it does not reflect the intent of the Illinois General Assembly to encompass drugs prescribed to treat side effects and related illnesses. Also, by providing that the program should affect drugs prescribed for the treatment of chronic illness but not acute illness, DOR has added a limiting factor not enacted by the General Assembly.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

The following second notices were received by the Joint Committee on Administrative Rules during the period of October 16, 2000 through October 23, 2000 and have been scheduled for review by the Committee at its November 14, 2000 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
11/29/00	Department of Children and Family Services, Children's Accounts (89 Ill Adm Code 353)	7/28/00 24 Ill Reg 11088	11/14/00
11/29/00	Department of Transportation, Prequalification of Contractors and Issuance of Plans and Proposals (44 Ill Adm Code 650)	8/25/00 24 Ill Reg 12856	11/14/00
11/30/00	Department of Financial Institutions, Consumer Installment Loan Act (38 Ill Adm Code 110)	8/11/00 24 Ill Reg 11717	11/14/00
12/1/00	Department of Public Aid, Hospital Services (89 Ill Adm Code 148)	7/28/00 24 Ill Reg 11150	11/14/00

competitive, federal grant from the U.S. Department of Housing and Urban Development that funds prevention and education of childhood lead poisoning; and

WHEREAS, the grant is used to administer Lead-Safe 2000, Madison County's Childhood Lead-Based Paint Hazard Control Program; and

WHEREAS, Lead-Safe 2000 continues to screen and educate children and parents, and address lead hazards in privately-owned housing within Madison County; and

WHEREAS, during National Childhood Lead Poisoning Prevention Week, Madison County Community Development, along with the Madison County Health Department, combine to offer the second annual FREE Children's Health Fair on Saturday, October 28, 2000, at City Park and Library Grounds in Downtown Edwardsville;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

October 22-28, 2000, as CHILDHOOD LEAD POISONING PREVENTION WEEK in Illinois.

Issued by the Governor October 12, 2000.

Filed by the Secretary of State October 24, 2000.

## 2000-536

## LITERACY FOR PEOPLE WHO ARE DEAF OR HARD OF HEARING DAY

WHEREAS, the mission of Alternatives in Education for the Hearing Impaired (AEHI) is to foster literacy and empower people with hearing impairments to achieve their potential through unique educational options; and

WHEREAS, literacy is the single greatest key to productive citizenship and adult economic self-sufficiency; and

WHEREAS, children who are deaf or hard of hearing are taught using Cued Speech to achieve levels of literacy equivalent to what would have been achieved if the child was not deaf or hard of hearing; and

WHEREAS, through its 13-year history, AEHI demonstrated Cued Speech at the Alexander Graham Bell Montessori School improving education and literacy outcomes for children who are deaf or hard of hearing; and

WHEREAS, AEHI offers a range of services to children who are deaf or hard of hearing and their families, including early intervention, Cued Speech workshops, advocacy and group support programs; and

WHEREAS, AEHI supports access to literacy for a statewide population of people who are deaf or hard of hearing through teacher training and consulting activities; and

WHEREAS, AEHI supports the development of new practices, technologies and techniques in education for the hearing impaired; and

WHEREAS, AEHI will be hosting an event at the Four Seasons Hotel in Chicago to promote literacy for children who are deaf or hard of hearing;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 25, 2000, as LITERACY FOR PEOPLE WHO ARE DEAF OR HARD OF HEARING DAY in Illinois.

Issued by the Governor October 12, 2000.

Filed by the Secretary of State October 24, 2000.

## 2000-537

## MASSAGE THERAPY AWARENESS WEEK

WHEREAS, the goals of therapeutic massage are to improve the quality of life and physical well-being of people of all ages; and

## PROCLAMATIONS

## 2000-534

## AUTOMOTIVE CAREER EDUCATION DAY

WHEREAS, the nation's franchised new car and truck dealers combined payroll in 1999 was \$42.5 billion, representing 11 percent of the nation's retail trade payroll; and

WHEREAS, franchised dealers employ more than 1 million people nationally and 42,125 within the State of Illinois; and

WHEREAS, the Automotive Service, Collision Repair, and Heavy Duty industry comprise eight percent of the Gross National Product and employ an additional five million people; and

WHEREAS, the nation's dealerships and automotive and truck service repair provide employment opportunities in rural, suburban, and urban areas in every state; and

WHEREAS, the nation's dealerships and automotive and truck service repair facilities play a crucial role in meeting the transportation needs of consumers all across the country; and

WHEREAS, there is currently a significant shortage of trained automotive industry professionals in the United States; and

WHEREAS, automotive industry occupations include up to 57 positions within retail dealerships alone, including various entry level positions, technicians, service advisors, clerical staff, supervisors, managers, accounting staff, sales people, and many other well-paying career positions; and

WHEREAS, the Illinois Automobile Dealers Association, the National Automobile Dealers Association (NADA), the Coordinating Committee for Automotive Repair (CARR), and affiliated organizations, including national trade associations and professional societies, their State chapters, colleges, corporations, federal, and State agencies are promoting automotive industry careers to solve the shortage while improving the image of the industry; and

WHEREAS, increased public awareness of this national initiative will increase the likelihood that young people will evaluate the various career opportunities that the automotive industry offers;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 25, 2000, as AUTOMOTIVE CAREER EDUCATION DAY in Illinois.

Issued by the Governor October 12, 2000.

Filed by the Secretary of State October 24, 2000.

## 2000-535

## CHILDHOOD LEAD POISONING PREVENTION WEEK

WHEREAS, the week of October 22-28, 2000, has been designated as National Childhood Lead Poisoning Prevention Week, and Madison County Community Development is a proud participating partner in this campaign; and

WHEREAS, despite efforts at education and prevention, children in the United States, as well as Madison County, continue to be poisoned by lead from peeling lead-based paint, lead-contaminated dust, and other sources in their homes; and

WHEREAS, National Childhood Lead Poisoning Prevention Week continues a major national awareness initiative being coordinated by the Campaign for a Lead-Safe America; and

WHEREAS, Madison County Community Development is a recipient of a

WHEREAS, consumers are spending an estimated \$2 to \$4 billion annually on massage therapy, and more insurance companies are covering it; and

WHEREAS, physicians are prescribing therapeutic massage to complement traditional medical treatment for illness, injury, and pain, and massage therapy has become an important part of work-related stress relief and recovery from sports-related injuries; and

WHEREAS, research has proved massage helpful in controlling pain, relieving stress, boosting immune system function, and reducing heart rate and blood pressure, and its benefits have also been studied on people with chronic lower back pain and migraines, as well as AIDS and cancer patients; and

WHEREAS, the American Massage Therapy Association (AMTA), an international 42,000 member association for massage therapists, with over 2000 members in Illinois, provides consumer and professional education information on massage therapy and helps consumers and health professionals locate a qualified massage therapist in their area;

WHEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 22-28, 2000, as MASSAGE THERAPY AWARENESS WEEK in Illinois.

Issued by the Governor October 12, 2000.

Filed by the Secretary of State October 24, 2000.

#### 2000-538

#### ORA HIGGINS' YOUTH FOUNDATION DAY

WHEREAS, the Ora Higgins' Youth Foundation was founded in 1976 by Ora Higgins, a lady of great vision and dedication to the cause of higher education for academically gifted students; and

WHEREAS, the Foundation will present a \$1,500 Scholarship Award to each of eight high school graduates pursuing post-secondary study at institutions of higher education; and

WHEREAS, the Foundation will present Leadership Awards to six outstanding local professionals who have distinguished themselves through their contributions to the growth and development of today's urban youth; and

WHEREAS, the Foundation strives to convey to its annual Scholarship Award recipients that the elements of good-will, productive labor, mutual respect and law and order are the foundation upon which to establish and maintain a stable society; and

WHEREAS, the Foundation will commemorate the 24th Anniversary of its annual Scholarship Awards Dinner on Saturday, October 28, 2000, at the Lexington House in Hickory Hills;

WHEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 28, 2000, as ORA HIGGINS' YOUTH FOUNDATION DAY in Illinois.

Issued by the Governor October 12, 2000.

Filed by the Secretary of State October 24, 2000.

#### 2000-539

#### PANCREATIC CANCER AWARENESS DAY

WHEREAS, November 2000 will be observed in the State of Illinois as Pancreatic Cancer Awareness Month to create awareness of pancreatic cancer, the number four cause of cancer death of men and women in the United States; and

WHEREAS, over 29,000 people in the United States will be diagnosed this year alone with pancreatic cancer, and 9 out of 10 pancreatic cancer patients will

die; and

WHEREAS, currently, there are no early detection methods and only minimal treatment options for pancreatic cancer; therefore, by the time symptoms generally present themselves, it is too late for a positive prognosis, and after diagnosis the average rate of survival is only 3-6 months; and

WHEREAS, pancreatic cancer does not discriminate by age, gender, or race, and 99 percent of those diagnosed will die; and

WHEREAS, the federal government invests less money in pancreatic cancer than in any other leading cancer; and

WHEREAS, the Pancreatic Cancer Action Network, Inc. (PANCAN), the premier voice of advocacy for pancreatic cancer, exists to create awareness, education, and funding to ultimately find the cure for pancreatic cancer. PANCAN works to focus national attention on the need to find the cure for pancreatic cancer by providing public and professional education that embraces the urgent need for more research, effective treatment, prevention programs, and early detection methods; and

WHEREAS, PANCAN will have the 3rd annual "An Evening with the Stars" celebrity fund-raiser on November 18, 2000, in Universal City, California, to raise awareness of this horrendous disease and to generate much needed funding for ongoing research to find early detection methods and a cure;

WHEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 18, 2000, as PANCREATIC CANCER AWARENESS DAY in Illinois.

Issued by the Governor October 12, 2000.

Filed by the Secretary of State October 24, 2000.

#### 2000-540

#### PHARMACY WEEK

WHEREAS, pharmacy is one of the oldest of health professions concerned with the health and well-being of all people; and

WHEREAS, today, over 195,000 pharmacists practicing in the United States are providing services to assure the rational and safe use of all medications; and

WHEREAS, currently, over 12,000 registered pharmacists are practicing in Illinois; and

WHEREAS, the use of medication as a cost-effective alternative to more expensive medical procedures is becoming a major force in moderating overall health care costs; and

WHEREAS, today's powerful medications require greater attention to the manner in which they are used by different patient population groups, both clinically and demographically; and

WHEREAS, it is important that all caregivers and consumers of prescription and non-prescription medications be knowledgeable about and share responsibility for their own drug therapy; and

WHEREAS, the American Pharmaceutical Association, the Illinois Pharmacists Association, and the Joint Commission of Pharmacy Practitioners have declared the final week of October as National Pharmacy Week with the theme "Educate Before You Medicate-Knowledge is the Best Medicine-Talk With Your Pharmacist";

WHEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 22-28, 2000, as PHARMACY WEEK in Illinois.

Issued by the Governor October 12, 2000.

Filed by the Secretary of State October 24, 2000.

## 2000-541

## PRINCIPALS' WEEK/PRINCIPAL APPRECIATION DAY

WHEREAS, the Principal is the recognized educational leader of a school; and  
 WHEREAS, the Principal communicates the vision and sets the expectation for a high level of student achievement and faculty performance; and  
 WHEREAS, the Principal keeps a positive climate for learning and the attainment of educational goals; and  
 WHEREAS, the State of Illinois recognizes and salutes the accomplishments, skills and commitment to the excellence of its Principals; and  
 WHEREAS, the Illinois Principals Association, under the leadership of its President, Dr. Paul J. Mikalcik, will hold its annual Principals Professional Conference in Peoria;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 22-28, 2000, as PRINCIPALS' WEEK and Friday, October 27, 2000, as PRINCIPAL APPRECIATION DAY in Illinois.

Issued by the Governor October 12, 2000.  
 Filed by the Secretary of State October 24, 2000.

## 2000-541 (REVISED)

## PRINCIPALS' WEEK/PRINCIPAL APPRECIATION DAY

WHEREAS, the Principal is the recognized educational leader of a school; and  
 WHEREAS, the Principal communicates the vision and sets the expectation for a high level of student achievement and faculty performance; and  
 WHEREAS, the Principal keeps a positive climate for learning and the attainment of educational goals; and  
 WHEREAS, the State of Illinois recognizes and salutes the accomplishments, skills and commitment to the excellence of its Principals; and  
 WHEREAS, the Illinois Principals Association, under the leadership of its President, Dr. Paul J. Mikalcik, will hold its annual Principals Professional Conference in Peoria;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 22-28, 2000, as PRINCIPALS' WEEK and Friday, October 27, 2000, as PRINCIPAL APPRECIATION DAY in Illinois.

Issued by the Governor October 16, 2000.  
 Filed by the Secretary of State October 24, 2000.

## 2000-542

## BRACHIAL PLEXUS INJURY AWARENESS WEEK

WHEREAS, brachial plexus injuries affect the network of nerves that control the muscles of the shoulder, arm, elbow, wrist, hand, and fingers and can result in full to partial paralysis of one or both arms; and  
 WHEREAS, brachial plexus injuries can occur as a result of trauma from automobile, motorcycle or boating accidents, sports injuries, animal bites, and gunshot or puncture wounds; and

WHEREAS, persons affected by brachial plexus injuries experience pain in muscles, joints and ligaments, as well as weakness, atrophy, numbness of the affected limb, and respiratory difficulties; and  
 WHEREAS, those affected by brachial plexus injuries often experience delayed diagnosis and lack of access to information related to current and

groundbreaking treatment options, including surgical procedures available that could enhance function of the affected limb; and

WHEREAS, early intervention by specialized physicians and experienced occupational and physical therapists is essential for optimum functional improvement related to a brachial plexus injury; and

WHEREAS, the brachial plexus injury community, the Awareness 2000 Committee, and United Brachial Plexus Network, Inc. are promoting the theme "Hand-in-Hand: Together We Can" for Brachial Plexus Injury Awareness Week 2000 to inform and educate the general public, the medical community, and individuals with

brachial plexus injuries and their families; and  
 WHEREAS increased understanding and awareness of brachial plexus injuries will ensure hope of a better future for people affected, as well as possibly prevent this injury from occurring;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 15-21, 2000, as BRACHIAL PLEXUS INJURY AWARENESS WEEK.

Issued by the Governor October 13, 2000.  
 Filed by the Secretary of State October 24, 2000.

## 2000-543

## DAVID STOVER DAY

WHEREAS, David Stover has worked on behalf of the Illinois Association of Rehabilitation Facilities since November 5, 1975; and

WHEREAS, he built the organization based on his strong belief in community providers and their commitment to quality services; and

WHEREAS, under his direction, IARF has focused on the needs of persons with disabilities and their families; and

WHEREAS, he has provided a consistent message to elected officials through the years about the needs of a quality-based community system for persons with disabilities and their families; and

WHEREAS, David Stover has emerged as a national leader for disability services, always pushing the envelope to insure that providers challenged themselves to always be better; and

WHEREAS, he is known around the State Capitol as a man of integrity and skill when it comes to legislative negotiation; and

WHEREAS, David Stover always had the best interests of his membership and those persons they support at the heart of his actions; and  
 WHEREAS, this is the year of his transition as Executive Director of the Illinois Association of Rehabilitation Facilities;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 19, 2000, as DAVID STOVER DAY in Illinois.

Issued by the Governor October 13, 2000.  
 Filed by the Secretary of State October 24, 2000.

## 2000-544

## PANCREATIC CANCER AWARENESS MONTH

WHEREAS, November 2000 will be observed in the State of Illinois as Pancreatic Cancer Awareness Month to create awareness of pancreatic cancer, the number four cause of cancer death of men and women in the United States; and

WHEREAS, over 29,000 people in the United States will be diagnosed this year alone with pancreatic cancer, and 9 out of 10 pancreatic cancer patients will



die; and

WHEREAS, currently, there are no early detection methods and only minimal treatment options for pancreatic cancer; therefore, by the time symptoms generally present themselves, it is too late for a positive prognosis, and after diagnosis the average rate of survival is only 3-6 months; and

WHEREAS, pancreatic cancer does not discriminate by age, gender, or race, and 99 percent of those diagnosed will die; and

WHEREAS, the federal government invests less money in pancreatic cancer than in any other leading cancer; and

WHEREAS, the Pancreatic Cancer Action Network, Inc. (PanCAN), the premier voice of advocacy for pancreatic cancer, exists to create awareness, education, and funding to ultimately find the cure for pancreatic cancer. PanCAN works to focus national attention on the need to find the cure for pancreatic cancer by providing public and professional education that embraces the urgent need for more research, effective treatment, prevention programs, and early detection methods; and

WHEREAS, PanCAN will have the 3rd annual "An Evening with the Stars" celebrity fund-raiser on November 18, 2000, in Universal City, California, to raise awareness of this horrendous disease and to generate much needed funding for ongoing research to find early detection methods and a cure;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 2000 as PANCREATIC CANCER AWARENESS MONTH in Illinois.

Issued by the Governor October 16, 2000.

Filed by the Secretary of State October 24, 2000.

#### 2000-545

##### FRENCH WEEK

WHEREAS, the study of foreign languages gives people an immediate bridge to international understanding and cooperation; and

WHEREAS, the study of the French language by generations of American youth has fostered greater understanding of the French speaking culture; and

WHEREAS, students in classrooms statewide will learn of the influence French society has in Illinois' past and present; and

WHEREAS, the American Association of Teachers of French Chicago/Northeastern Illinois Chapter is sponsoring a series of events celebrating contributions of the French to art, music, literature, and science; and

WHEREAS, throughout the week of November 4, an exhibit of American French student art constants, a French Winemakers' Dinner, demonstrations of French Cooking, and performances of French music will be held across Illinois;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim, November 4-10, 2000, as FRENCH WEEK in Illinois.

Issued by the Governor October 19, 2000.

Filed by the Secretary of State October 24, 2000.

#### 2000-546

##### FUTURES AND OPTIONS DAYS

WHEREAS, the City of Chicago is a world leader in futures and options trading; and

WHEREAS, Chicago has been a center of futures and options trading almost since the city's founding; and

WHEREAS, Chicago was the birthplace of financial futures and options, which have helped transform the global economy; and

WHEREAS, today, Chicago's futures and options exchanges are powerful forces of economic development, generating trillions of dollars in capital to Illinois and providing thousands of jobs; and

WHEREAS, Chicago's futures and options exchanges are preparing for a new era in financial services through innovations in electronic trading systems and new corporate structures designed to enhance their position in global financial markets; and

WHEREAS, Chicago's futures and options exchanges contribute tremendously to Illinois' reputation as a global financial center; and

WHEREAS, the Futures Industry Association, a professional group representing the futures and options industry, for the 16th consecutive year will hold its "Futures and Options Expo 2000" in Chicago, Illinois, during the week of November 6, 2000; and

WHEREAS, the Futures and Options Expo is the largest futures industry event in the world, with more than 4,000 trade participants from around the world in attendance;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 7-9, 2000, as FUTURES AND OPTIONS DAYS in Illinois.

Issued by the Governor October 19, 2000.

Filed by the Secretary of State October 24, 2000.

#### 2000-547

##### HIGH TECH WEEK

WHEREAS, the State of Illinois supports the creation of a climate for business growth so that Illinois citizens will enjoy more jobs, better pay, and a stronger economy; and

WHEREAS, Illinois ranks third in the export of technology products and fourth in employment in high tech industries; and

WHEREAS, technology companies in Illinois employ approximately 368,000 people, one in 14 of all persons in the private sector, whose wages alone total an estimated \$17 billion annually; and

WHEREAS, there are more than 2,000 computer companies in the greater Chicago area, lending credence to Illinois' leadership role and the driving force behind the rising technology economy in the Midwest; and

WHEREAS, Illinois is recognized nationally for its renowned research institutes and universities including the Fermi National Accelerator Laboratory, University of Illinois, Northwestern University, Illinois Institute of Technology, University of Chicago and Argonne National Laboratory; and

WHEREAS, on November 20, 2000, the annual High Tech Awards ceremony will be held;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 20-24, 2000, as HIGH TECH WEEK in Illinois.

Issued by the Governor October 18, 2000.

Filed by the Secretary of State October 24, 2000.



Rules asked upon during the calendar quarter from Issue 43 through Issue 53 are listed in the Issues Index by Title number and Issue number. For example, 50 Ill. Adm. Code 2600 published in Issue 1 will be listed as 50-2500-1. The letter "E" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jraland@cgale.oss.state.il.us on the Internet.

**PROPOSED**

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35-611-44

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